

## Assembly Bill No. 2888

### CHAPTER 568

An act to amend Sections 119, 2415, 2486, 2533, 2733, 2761, 4935, 4938, 4939, 4945, 4955, 4970, 6980.59, 6980.74, 7304, 7309, 7311, 7312, 7314, 7317, 7319.5, 7321, 7321.5, 7324, 7326, 7330, 7331, 7331.5, 7332, 7333, 7334, 7335, 7336, 7337, 7337.5, 7338, 7340, 7341, 7342, 7344, 7347, 7349, 7353, 7354, 7355, 7356, 7357, 7359, 7362, 7362.1, 7362.2, 7362.3, 7364, 7365, 7366, 7367, 7389, 7390, 7391, 7392, 7393, 7394, 7395, 7395.1, 7396, 7400, 7403, 7404, 7405, 7406, 7407, 7408, 7409, 7414, 7414.1, 7414.3, 7414.4, 7414.6, 7415, 7416, 7421, 7422, 7507, 7533.5, 7582.19, 7583.20, 7599.32, 7601, 7602, 7606, 7607, 7608, 7610, 7616.2, 7618, 7619.2, 7621, 7625, 7626, 7626.5, 7628, 7629, 7631, 7635, 7641, 7642, 7643, 7646, 7647, 7647.5, 7650, 7661, 7662, 7664, 7665, 7666, 7667, 7668, 7669, 7670, 7685.2, 7685.3, 7685.5, 7686, 7686.5, 7687, 7690, 7708, 7709, 7711, 7725, 7725.2, 7725.5, 7727, 7737.3, 7740, 7740.5, 9603, 9625, 9630, 9631, 9650, 9650.1, 9650.2, 9650.3, 9650.4, 9651, 9652, 9652.1, 9653, 9654, 9655, 9656, 9656.1, 9656.2, 9656.25, 9656.3, 9656.4, 9656.45, 9656.5, 9657, 9658, 9659, 9662, 9663, 9676, 9679, 9680, 9682, 9683, 9685, 9700, 9700.5, 9700.6, 9701, 9702.1, 9702.2, 9702.5, 9703, 9704, 9710, 9711, 9712, 9713, 9714, 9715, 9716, 9717, 9718, 9719, 9720, 9726, 9727, 9727.1, 9727.2, 9728, 9729, 9730, 9737, 9740, 9741, 9741.1, 9742, 9744.5, 9745, 9746, 9749.5, 9751, 9752, 9753, 9754, 9755, 9756, 9759, 9760, 9761, 9762, 9763, 9764, 9765, 9766, 9767, 9769, 9780, 9781, 9782, 9783, 9784, 9785, 9786, 9787, and 9789 of, to add Sections 488, 7302, and 7303 to, and to repeal Sections 2535.3, 7305, 7306, 7307, 7308, 7427, 9705, and 9758 of, the Business and Professions Code, and to amend Sections 8113.6, 8343, 8344, 8344.5, 8346.5, 8347, 8574, 8585, 8731, 8734, 8740, 8743, 8744, 8747.5, 8748, 9600.5, and 9600.6 of the Health and Safety Code, relating to professions and vocations, and making an appropriation therefor.

[Approved by Governor September 18, 2000. Filed  
with Secretary of State September 21, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2888, Committee on Consumer Protection, Governmental Efficiency and Economic Development. Professions and vocations.

(1) Existing law makes it a crime to engage in specified activities with respect to professional licenses, as defined, including using a fictitious license or any document that simulates a license.

This bill would additionally make it a crime to manufacture a license and to buy or receive a fraudulent, forged, or counterfeit license. By creating a new crime, this bill would impose a state-mandated local program.

(2) Under existing law, an applicant has the right to request a hearing if his or her application for a license to practice a profession or vocation has been denied.

This bill would authorize the licensing board to take various dispositive actions with respect to the application following these hearings.

(3) Existing law requires a certificate to practice podiatric medicine that is issued by the Division of Licensing of the Medical Board of California upon the recommendation of the California Board of Podiatric Medicine and specifies certain criteria for the issuance of this certificate, including that the applicant has passed after June 30, 1958, the examination administered by the National Board of Podiatric Medicine Examiners of the United States, or an equivalent examination as specified, and has passed an oral and practical examination administered by the California Board of Podiatric Medicine.

This bill would change these criteria by specifying that, within the past 10 years, applicants must have passed all parts of the examination administered by the National Board of Podiatric Medical Examiners of the United States or an equivalent examination, as specified, and passed any oral and practical examination that the California Board of Podiatric Medicine may require of all applicants.

(4) Existing law authorizes a doctor of podiatric medicine to practice under a fictitious name if he or she obtains a fictitious name permit from the California Board of Podiatric Medicine. Under existing law, the board is required to issue the permit to an applicant if it finds, among other matters, that the proposed fictitious name contains specified permissible designations describing the applicant's practice.

This bill would include within the list of permissible designations describing the applicant's practice the terms "foot," "foot and ankle," "foot care," "foot health," and "foot specialist."

(5) Existing law provides for the licensure and regulation of the practice of speech-language pathologists and audiologists by the Speech-Language Pathology and Audiology Board and authorizes the board to take disciplinary action against licensees for specified acts of misconduct, the commission of which also constitutes a crime.

This bill would add incompetence or gross negligence in the practice of speech pathology or audiology as a ground for disciplinary action. Because the commission of these acts would be a crime, the bill would expand the scope of an existing criminal offense and, thereby, would impose a state-mandated local program. This bill would also delete provisions pertaining to the reinstatement of suspended and revoked licenses.

(6) The Nursing Practice Act requires licensure by the Board of Registered Nursing of persons engaged in the practice of nursing and authorizes the board to take disciplinary action against licensees for

specified acts of misconduct, the commission of which also constitutes a crime. This act also authorizes the board to issue a clinical nurse specialist certificate to a registered nurse who meets specified criteria.

This bill would authorize the board to issue a temporary certificate to practice as a clinical nurse specialist and would include as a ground of misconduct misrepresenting oneself as being certified as a clinical nurse specialist. Because the violation of this provision would be a crime, this bill would impose a state-mandated local program.

(7) The Acupuncture Licensing Act provides for the licensure and regulation of the practice of acupuncture by the Acupuncture Board. Under this law, an exception is made from this licensure requirement for graduates of board-approved acupuncture schools who are participating in a postgraduate review course, not exceeding 6 months in duration.

This bill would increase this term from 6 months to one year and would correct references in this law to reflect that the board is the licensing and regulatory entity for this profession.

(8) Existing law provides for the issuance of licenses by the Bureau of Security and Investigative Services to individuals as well as to corporations and partnerships engaged in locksmith activities and requires corporate licensees to report to the bureau any change in their officers and to submit a license application for each new officer. Under existing law, the bureau is authorized to take disciplinary action against licensees for a violation of this provision and other specified acts of misconduct.

This bill would extend this reporting requirement to partnerships, requiring them to notify the bureau of the addition of any new partner and to submit a licensing application for him or her. This bill would also provide for the issuance of a Notice of Warning for the first violation of this section and for the imposition of a fine for subsequent violations. Because all revenues generated from this fine would be paid into the State Treasury for credit to the Private Security Services Fund, which is continuously appropriated, this bill would make an appropriation. This bill would also authorize the bureau to suspend or revoke the license of a corporation or partnership based upon acts of misconduct committed by its officers or partners.

(9) The Barbering and Cosmetology Act, which becomes inoperative on July 1, 2005, absent a statute extending or repealing this inoperative date, provides for the licensure and regulation of the practice of barbering and cosmetology by the Director of the Department of Consumer Affairs. Under this act, students are exempted from the licensing requirement while they are enrolled at an approved school.

This bill would provide for the creation of a Bureau of Barbering and Cosmetology under the supervision and control of the director and would make conforming changes to several provisions in the act



to reflect the bureau's establishment. This bill would also delete the provisions making the act inoperative on July 1, 2005, thereby extending its provisions indefinitely but would make the continued existence of the bureau subject to legislative review. This bill would also specify that the licensure exemption provided to students applies only to services performed in the schools in which they are enrolled.

(10) The Collateral Recovery Act, which regulates repossession agencies; the Private Investigator Act; the Private Security Services Act; and the Alarm Company Act, require corporate licensees to report any change in their corporate officers and to submit a licensing application for all new officers. Under the Alarm Company Act, an administrative fine of \$25 may be imposed for the 2nd and subsequent violations of this provision, the proceeds of which are deposited into the Private Security Services Fund, a continuously appropriated fund. Each of these acts also authorizes the revocation or suspension of the corporation's license for designated acts committed by the new officer, as specified. Under existing law, a violation of these provisions with respect to the Collateral Recovery Act, the Private Security Services Act, and the Alarm Company Act constitutes a crime.

This bill would extend these provisions to partnerships licensed under the provisions of these acts, requiring those licensees to report the addition of a new partner and to file a license application for him or her and would also make partnership licenses subject to suspension or revocation for designated acts committed by the new partner, as specified. Because the violation of these provisions would be a crime, this bill would impose a state-mandated local program, and because multiple violations of this provision would be subject to a fine pursuant to the provisions of the Alarm Company Act, the proceeds of which would be deposited into a continuously appropriated fund, it would also make an appropriation.

(11) The Funeral Directors and Embalmers Law provides for the licensure of funeral directors and embalmers and the regulation of funeral establishments by the Funeral Directors and Embalmers Program, and the Cemetery Act provides for the licensure and regulation of cemetery practices by the Cemetery Program.

This bill would provide for these functions to be performed, instead, by the Cemetery and Funeral Bureau. This bill would also delete provisions that authorize the Cemetery Board to issue a temporary cemetery salesperson's license upon specified conditions.

(12) This bill would incorporate additional changes in Section 9745 of the Business and Professions Code, proposed by AB 2279, to be operative only if AB 2279 and this bill are both chaptered and become effective on or before January 1, 2001, and this bill is chaptered last.

(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the

state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 119 of the Business and Professions Code is amended to read:

119. Any person who does any of the following is guilty of a misdemeanor:

(a) Displays or causes or permits to be displayed or has in his or her possession either of the following:

(1) A canceled, revoked, suspended, or fraudulently altered license.

(2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.

(b) Lends his or her license to any other person or knowingly permits the use thereof by another.

(c) Displays or represents any license not issued to him or her as being his or her license.

(d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.

(e) Knowingly permits any unlawful use of a license issued to him or her.

(f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in his or her possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.

(g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, "fraudulent" means containing any misrepresentation of fact.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

SEC. 2. Section 488 is added to the Business and Professions Code, to read:

488. Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(a) Grant the license effective upon completion of all licensing requirements by the applicant.

(b) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(c) Deny the license.

(d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

SEC. 3. Section 2415 of the Business and Professions Code is amended to read:

2415. (a) Any physician and surgeon or any doctor of podiatric medicine, as the case may be, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing, or, in the case of doctors of podiatric medicine, the California Board of Podiatric Medicine, under the provisions of this section.

(b) The division or the board shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the division or the board finds to its satisfaction that:

(1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses as physicians and surgeons or doctors of podiatric medicine, as the case may be.

(2) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.

(3) The name under which the applicant or applicants propose to practice is not deceptive, misleading, or confusing, and contains one of the following designations: “medical group,” “medical clinic,” “medical corporation,” “medical associates,” “medical center,” or “medical office.” In the case of doctors of podiatric medicine, the same designations may be used substituting the words “podiatric medical,” “podiatric surgical,” “podiatry,” “podiatrists,” “foot,” “foot and ankle,” “foot care,” “foot health,” or “foot specialist” for the word “medical.”

(c) This section shall not apply to licensees who contract with, are employed by, or are on the staff of, any clinic licensed by the State Department of Health Services under Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code or any medical school approved by the division or a faculty practice plan connected with such a medical school.

(d) Fictitious-name permits issued under this section shall be subject to Article 19 (commencing with Section 2420) pertaining to renewal of licenses, except the division shall establish procedures for the renewal of fictitious-name permits every two years on an

anniversary basis. For the purpose of the conversion of existing permits to this schedule the division may fix prorated renewal fees.

(e) The division or the board may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with the provisions of this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2230.

(f) A fictitious-name permit issued to any licensee in a sole practice is automatically revoked in the event the licensee's certificate to practice medicine or podiatric medicine is revoked.

(g) The division or the board may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious-name permits and to issue those permits.

(h) The California Board of Podiatric Medicine shall administer and enforce this section as to doctors of podiatric medicine.

SEC. 4. Section 2486 of the Business and Professions Code is amended to read:

2486. The division shall issue, upon the recommendation of the board, a certificate to practice podiatric medicine if the applicant meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine and meets the requirements of Section 2483.

(b) The applicant, within the past 10 years, has passed all required parts of the examination administered by the National Board of Podiatric Medical Examiners of the United States or has passed, a written examination which is recognized by the board to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(d) The applicant has passed within the past 10 years any oral and practical examination that may be required of all applicants by the board to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

(f) The board determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine that the board determines constitutes evidence of a pattern of negligence or incompetence.

SEC. 5. Section 2533 of the Business and Professions Code is amended to read:



2533. The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct shall include, but shall not be limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist, as the case may be. The record of the conviction shall be conclusive evidence thereof.

(b) Securing a license by fraud or deceit.

(c) (1) The use or administering to himself or herself, of any controlled substance; (2) the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in a manner as to be dangerous or injurious to the licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology of audiology safely; (3) more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section; or (4) any combination of paragraphs (1), (2), or (3). The record of the conviction shall be conclusive evidence of unprofessional conduct.

(d) Advertising in violation of Section 17500.

(e) Committing a dishonest or fraudulent act which is substantially related to the qualifications, functions, or duties of a licensee.

(f) Incompetence or gross negligence in the practice of speech-language pathology or audiology.

(g) Other acts that have endangered or are likely to endanger the health, welfare, and safety of the public.

SEC. 6. Section 2535.3 of the Business and Professions Code is repealed.

SEC. 7. Section 2733 of the Business and Professions Code is amended to read:

2733. (a) Upon approval of an application filed pursuant to subdivision (b) of Section 2732.1, and upon the payment of the fee prescribed by subdivision (k) of Section 2815, the board may issue a temporary license to practice professional nursing, and a temporary certificate to practice as a certified nurse midwife, certified nurse practitioner, certified public health nurse, certified clinical nurse specialist, or certified nurse anesthetist for a period of six months from the date of issuance.

A temporary license or temporary certificate shall terminate upon notice thereof by certified mail, return receipt requested, if it is issued by mistake or if the application for permanent licensure is denied.



(b) Upon written application, the board may reissue a temporary license or temporary certificate to any person who has applied for a regular renewable license pursuant to subdivision (b) of Section 2732.1 and who, in the judgment of the board has been excusably delayed in completing his or her application for or the minimum requirements for a regular renewable license, but the board may not reissue a temporary license or temporary certificate more than twice to any one person.

SEC. 8. Section 2761 of the Business and Professions Code is amended to read:

2761. The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500.

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

(b) Procuring his or her certificate or license by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a certificate or license.



(h) Impersonating another certified or licensed practitioner, or permitting or allowing another person to use his or her certificate or license for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of, or arranging for, a violation of any of the provisions of Article 12 (commencing with Section 2220) of Chapter 5.

(j) Holding oneself out to the public or to any practitioner of the healing arts as a “nurse practitioner” or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834) or holding oneself out to the public as being certified by the board as a nurse anesthetist, nurse midwife, clinical nurse specialist, or public health nurse unless the person is at the time so certified by the board.

(k) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensed or certified nurse to patient, from patient to patient, and from patient to licensed or certified nurse. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates to minimize the risk of transmission of blood-borne infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

SEC. 9. Section 4935 of the Business and Professions Code is amended to read:

4935. (a) Any person who practices acupuncture or holds himself or herself out as practicing or engaging in the practice of acupuncture, unless he or she possesses a current and valid acupuncturist’s license, is guilty of a misdemeanor.

(b) Notwithstanding any other provision of law, any person, other than a physician and surgeon, a dentist, or a podiatrist, who is not

licensed under this article but is licensed under Division 2 (commencing with Section 500), who practices acupuncture involving the application of a needle to the human body, performs any acupuncture technique or method involving the application of a needle to the human body, or directs, manages, or supervises another person in performing acupuncture involving the application of a needle to the human body is guilty of a misdemeanor.

(c) A person holds himself or herself out as engaging in the practice of acupuncture by the use of any title or description of services incorporating the words “acupuncture,” “acupuncturist,” “certified acupuncturist,” “licensed acupuncturist,” “oriental medicine,” or any combination of those words, phrases, or abbreviations of those words or phrases, or by representing that he or she is trained, experienced, or an expert in the field of acupuncture, oriental medicine, or Chinese medicine.

(d) Subdivision (a) shall not prohibit a person from administering acupuncture treatment as part of his or her educational training if he or she:

(1) Is engaged in a course or tutorial program in acupuncture, as provided in this chapter; or

(2) Is a graduate of a school of acupuncture approved by the board and participating in a postgraduate review course that does not exceed one year in duration at a school approved by the board.

SEC. 10. Section 4938 of the Business and Professions Code is amended to read:

4938. The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of one of the following:

(1) An educational and training program approved by the board pursuant to Section 4939.

(2) Satisfactory completion of a tutorial program in the practice of an acupuncturist which is approved by the board.

(3) In the case of an applicant who has completed education and training outside the United States and Canada, documented educational training and clinical experience which meets the standards established pursuant to Sections 4939 and 4941.

(c) Passes a written examination administered by the board that tests the applicant’s ability, competency, and knowledge in the practice of an acupuncturist. The written examination shall be developed by the Office of Examination Resources of the Department of Consumer Affairs.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

(e) Completes a clinical internship training program approved by the board. The clinical internship training program shall not exceed nine months in duration and shall be located in a clinic in this state, which is approved by the board pursuant to Section 4939. The length of the clinical internship shall depend upon the grades received in the examination and the clinical training already satisfactorily completed by the individual prior to taking the examination. On and after January 1, 1987, individuals with 800 or more hours of documented clinical training shall be deemed to have met this requirement. The purpose of the clinical internship training program shall be to assure a minimum level of clinical competence.

Each applicant who qualifies for a license shall pay, as a condition precedent to its issuance and in addition to other fees required, the initial licensure fee.

SEC. 11. Section 4939 of the Business and Professions Code is amended to read:

4939. (a) The board shall establish standards for the approval of schools and colleges offering education and training in the practice of an acupuncturist, including standards for the faculty in those schools and colleges, and tutorial programs, completion of which will satisfy the requirements of Section 4938.

(b) Within three years of initial approval by the board each program so approved by the board shall receive full institutional approval under Article 3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code in the field of traditional oriental medicine, or in the case of institutions located outside of this state, approval by the appropriate governmental educational authority using standards equivalent to those of Article 3.5 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code, or the board's approval of the program shall automatically lapse.

(c) This section shall become operative on January 1, 1997.

SEC. 12. Section 4945 of the Business and Professions Code is amended to read:

4945. (a) The board shall establish standards for continuing education for acupuncturists.

(b) The board shall require each acupuncturist to complete 30 hours of continuing education every two years as a condition for renewal of his or her license. A provider of continuing education shall apply to the board for approval to offer continuing education courses for credit toward this requirement on a form developed by the board, shall pay a fee covering the cost of approval and for the monitoring of the provider by the board and shall set forth the following information on the application:

- (1) Course content.
- (2) Test criteria.
- (3) Hours of continuing education credit requested for the course.

(4) Experience and training of instructors.

(5) Other information as required by the board.

(6) That interpreters or bilingual instruction will be made available, when necessary.

(c) Licensees residing out of state or out of the country shall comply with the continuing education requirements.

(d) Providers of continuing education shall be monitored by the board as determined by the board.

(e) If the board determines that any acupuncturist has not obtained the required number of hours of continuing education, it may renew the acupuncturist's license and require that the deficient hours of continuing education be made up during the following renewal period in addition to the current continuing education required for that period. If any acupuncturist fails to make up the deficient hours and complete the current requirement of hours of continuing education during the subsequent renewal period, then his or her license to practice acupuncture shall not be renewed until all the required hours are completed and documented to the board.

(f) This section shall become operative January 1, 1996.

SEC. 13. Section 4955 of the Business and Professions Code is amended to read:

4955. The board may deny, suspend, or revoke, or impose probationary conditions upon, the license of any acupuncturist if he or she is guilty of unprofessional conduct that has endangered or is likely to endanger the health, safety, or welfare of the public.

Unprofessional conduct shall include, but not be limited to, the following:

(a) Securing a license by fraud or deceit.

(b) Committing a fraudulent or dishonest act as an acupuncturist resulting in substantial injury to another.

(c) Using any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that the use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

(d) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

(e) Improper advertising.

(f) Violating or conspiring to violate the terms of this chapter.

(g) Gross negligence.

(h) Repeated negligent acts.

(i) Incompetence.

(j) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from licensee

to patient, from patient to patient, and from patient to licensee. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, regulations, and guidelines pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the Medical Board of California, the California Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(k) The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice acupuncture issued by that state, or the revocation, suspension, or restriction of the authority to practice acupuncture by an agency of the federal government, on grounds that would have been grounds for disciplinary action in California of a licensee under this chapter.

SEC. 14. Section 4970 of the Business and Professions Code is amended to read:

4970. The amount of fees prescribed for licensed acupuncturists shall be those set forth in this section unless a lower fee is fixed by the board in accordance with Section 4972:

(a) The application fee shall be seventy-five dollars (\$75).

(b) The examination and reexamination fees shall be the actual cost to the Acupuncture Board for the development and writing of, grading, and administering of each examination.

(c) The initial license fee shall be three hundred twenty-five dollars (\$325), except that if the license will expire less than one year after its issuance, then the initial license fee shall be an amount equal to 50 percent of the initial license fee.

(d) The renewal fee shall be three hundred twenty-five dollars (\$325) and in the event a lower fee is fixed by the board, shall be an amount sufficient to support the functions of the board in the administration of this chapter. The renewal fee shall be assessed on an annual basis until January 1, 1996, and on and after that date the board shall assess the renewal fee biennially.

(e) The delinquency fee shall be set in accordance with Section 163.5.

(f) The application fee for the approval of a school or college under Section 4939 shall be three thousand dollars (\$3,000).

(g) The duplicate wall license fee is an amount equal to the cost to the board for the issuance of the duplicate license.

(h) The duplicate renewal receipt fee is ten dollars (\$10).

(i) The endorsement fee is ten dollars (\$10).

(j) The fee for a duplicate license for an additional office location as required under Section 4961 shall be fifteen dollars (\$15).

SEC. 15. Section 6980.59 of the Business and Professions Code is amended to read:

6980.59. (a) A licensee shall notify the bureau within 30 days of any change of its officers required to be named pursuant to Section 6980.21 and of the addition of any new partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may deny the application of a new officer or partner if the director determines that the officer or partner has committed any act which constitutes grounds for the denial of a license pursuant to Section 6980.71.

(b) A Notice of Warning shall be issued for the first violation of this section. Thereafter, the director shall assess a fine of twenty-five dollars (\$25) for each subsequent violation of this section.

SEC. 16. Section 6980.74 of the Business and Professions Code is amended to read:

6980.74. (a) The bureau may suspend or revoke a license issued pursuant to this chapter for acts including, but not limited to, any of the following acts which shall also be unlawful:

(1) Misrepresentation or concealment of a material fact in a license application.

(2) Interference with authorized personnel engaged in the enforcement or administration of this chapter.

(3) Knowingly using or permitting the use of any of his or her skills, tools, or facilities for the commission of any crime.

(4) Conviction of a crime substantially related to the qualifications, functions, or duties of a locksmith.

(5) A violation of this chapter or the rules and regulations adopted under the authority of this chapter.

(b) The bureau may suspend or revoke a license issued to a corporation or to a partnership for the commission of any act listed in subdivision (a) by an officer of the corporation or by a partner in the partnership.

SEC. 17. Section 7302 is added to the Business and Professions Code, to read:

7302. The following definitions shall apply for purposes of this chapter:

(a) “Department” means the Department of Consumer Affairs.

(b) “Director” means the Director of Consumer Affairs.

(c) “Bureau” means the Bureau of Barbering and Cosmetology.



(d) “Bureau chief” means the bureau chief of the Bureau of Barbering and Cosmetology.

SEC. 18. Section 7303 is added to the Business and Professions Code, to read:

7303. There is in the Department of Consumer Affairs a Bureau of Barbering and Cosmetology under the supervision and control of the director.

The director may appoint a bureau chief at a salary to be determined and fixed by the director with the approval of the Director of Finance. The bureau chief shall serve at the pleasure of, and under the direction and supervision of, the director.

Every power granted to or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the bureau chief, subject to the conditions and limitations prescribed by the director.

SEC. 19. Section 7304 of the Business and Professions Code is amended to read:

7304. The bureau shall be subject to review pursuant to Division 1.2 (commencing with Section 473).

SEC. 20. Section 7305 of the Business and Professions Code is repealed.

SEC. 21. Section 7306 of the Business and Professions Code is repealed.

SEC. 22. Section 7307 of the Business and Professions Code is repealed.

SEC. 23. Section 7308 of the Business and Professions Code is repealed.

SEC. 24. Section 7309 of the Business and Professions Code is amended to read:

7309. The bureau shall establish a principal office, and may establish branch offices and examination facilities in the state as may be deemed necessary for the bureau to conduct its business.

SEC. 25. Section 7311 of the Business and Professions Code is amended to read:

7311. The director shall adopt and use a common seal for the authentication of the bureau’s records.

SEC. 26. Section 7312 of the Business and Professions Code is amended to read:

7312. The director shall do all of the following:

(a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.

(b) Conduct and administer examinations of applicants for licensure.

(c) Issue licenses to those applicants that may be entitled thereto.

(d) Discipline persons who have been determined to be in violation of this chapter or the regulations adopted pursuant to this chapter.

(e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the bureau, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Title 2 of the Government Code, and shall be submitted to the State Department of Health Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.

SEC. 27. Section 7314 of the Business and Professions Code is amended to read:

7314. The bureau shall keep a record of its proceedings relating to its public meetings, meetings of committees, and records relating to the issuance, refusal, renewal, suspension and revocation of licenses.

The bureau shall keep a registration record of each licensee containing the name, address, license number and date issued. This record shall also contain any facts that the applicants may have stated in their application for examination for licensure.

SEC. 28. Section 7317 of the Business and Professions Code is amended to read:

7317. Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in barbering, cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the bureau, or in an establishment or mobile unit other than one licensed by the bureau, or conduct or operate an establishment, or any other place of business in which barbering, cosmetology, or electrolysis is practiced unless licensed under this chapter. Persons licensed under this chapter shall limit their practice and services rendered to the public to only those areas for which they are licensed. Any violation of this section is a misdemeanor.

SEC. 29. Section 7319.5 of the Business and Professions Code is amended to read:

7319.5. Students engaged in performing services on the public while enrolled in a school approved by the bureau shall not be required to be licensed under this chapter if they perform those services at the approved school in which they are enrolled.

SEC. 30. Section 7321 of the Business and Professions Code is amended to read:

7321. The bureau shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

- (a) Is not less than 17 years of age.
- (b) Has completed the 10th grade in the public schools of this state or its equivalent.



(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in cosmetology from a school approved by the bureau.

(2) Practiced cosmetology as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in cosmetology from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Holds a license as a barber in this state and has completed a cosmetology crossover course in a school approved by the bureau.

(4) Completed a barbering course in a school approved by the bureau and has completed a cosmetology crossover course in a school approved by the bureau.

(5) Completed the apprenticeship program in cosmetology specified in Article 4 (commencing with Section 7332).

SEC. 31. Section 7321.5 of the Business and Professions Code is amended to read:

7321.5. The bureau shall admit to examination for a license as a barber to practice barbering, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in barbering from a school approved by the bureau.

(2) Completed an apprenticeship program in barbering approved by the bureau as conducted under the provisions of the Shelley-Maloney Apprentice Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(3) Practiced barbering as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in barbering from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(4) Holds a license as a cosmetologist in this state and has completed a barber crossover course in a school approved by the bureau.



(5) Completed a cosmetology course in a school approved by the bureau and has completed a barber crossover course in a school approved by the bureau.

(6) Completed comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records.

SEC. 32. Section 7324 of the Business and Professions Code is amended to read:

7324. The bureau shall admit to examination for a license as an esthetician to practice skin care, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in skin care from a school approved by the bureau.

(2) Practiced skin care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in skin care from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in skin care specified in Article 4 (commencing with Section 7332).

SEC. 33. Section 7326 of the Business and Professions Code is amended to read:

7326. The bureau shall admit to examination for a license as a manicurist to practice nail care, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in nail care from a school approved by the bureau.

(2) Practiced nail care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in nail care from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the

equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in nail care specified in Article 4 (commencing with Section 7332).

SEC. 34. Section 7330 of the Business and Professions Code is amended to read:

7330. The bureau shall admit to examination for a license as an electrologist to practice electrolysis, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course of training in electrolysis from a school approved by the bureau.

(2) Practiced electrolysis, as defined in this chapter, for a period of 18 months outside of this state within the time equivalent to the study and training of a qualified person who has completed a course in electrolysis from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in electrology specified in Article 4 (commencing with Section 7332).

SEC. 35. Section 7331 of the Business and Professions Code is amended to read:

7331. Any person who fails to qualify for admission to an examination because the person's practice outside this state does not fulfill the requirements of this chapter shall receive credit for that practice or study and training outside this state, or for the number of hours of study and training completed outside this state, which is substantially equivalent to the study and training required in this state, as determined by the bureau.

Those persons shall be qualified for examination upon completion of supplementary study and training in an approved school in this state.

SEC. 36. Section 7331.5 of the Business and Professions Code is amended to read:

7331.5. It is the intent of the Legislature that no law which may hereafter be enacted increasing the number of hours of training in a school approved by the bureau or the length of training in an apprenticeship program approved by the bureau which are required for eligibility for any examination shall apply to a person who on the effective date of the law is a student in, or has completed the prescribed course of study in, a school or is an apprentice in an

apprentice program. This section shall not apply to a person who does not apply for and take the first examination for which he or she is eligible occurring after the effective date of the law, unless compliance with this requirement is waived by the bureau for good cause as defined in regulations.

SEC. 37. Section 7332 of the Business and Professions Code is amended to read:

7332. An apprentice is any person who is licensed by the bureau to engage in learning or acquiring a knowledge of barbering, cosmetology, skin care, nail care, or electrology, in a licensed establishment under the supervision of a licensee approved by the bureau.

SEC. 38. Section 7333 of the Business and Professions Code is amended to read:

7333. The apprentice training program shall be conducted in compliance with the Shelley-Maloney Apprentice Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code, according to apprenticeship standards approved by the administrator of apprenticeship. A copy of the act shall be maintained on file with the bureau.

SEC. 39. Section 7334 of the Business and Professions Code is amended to read:

7334. (a) The bureau may license as an apprentice in barbering, cosmetology, skin care, or nail care any person who has made application to the bureau upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

- (1) Is over 16 years of age.
- (2) Has completed the 10th grade in the public schools of this state or its equivalent.
- (3) Is not subject to denial pursuant to Section 480.
- (4) Has submitted evidence acceptable to the bureau that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the bureau.

(b) The bureau may license as an apprentice in electrolysis any person who has made application to the bureau upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

- (1) Is not less than 17 years of age.
- (2) Has completed the 12th grade or an accredited senior high school course of study in schools of this state or its equivalent.
- (3) Is not subject to denial pursuant to Section 480.
- (4) Has submitted evidence acceptable to the bureau that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the bureau.



(c) All persons making application as an apprentice in barbering shall also complete a minimum of 39 hours of preapprentice training in a facility approved by the bureau prior to serving the general public.

(d) All persons making application as an apprentice in cosmetology, skin care, nail care, or electrology shall also complete minimum preapprentice training for the length of time established by the bureau in a facility approved by the bureau prior to serving the general public.

(e) Apprentices may only perform services on the general public for which they have received technical training.

(f) Apprentices shall be required to obtain at least the minimum hours of technical instruction and minimum number of practical operations for each subject as specified in bureau regulations for courses taught in schools approved by the bureau, in accordance with Sections 3074 and 3078 of the Labor Code.

SEC. 40. Section 7335 of the Business and Professions Code is amended to read:

7335. (a) The license of an apprentice shall expire two years from the date the license was issued, or on the date the apprentice is issued a license following the license examination, or if the apprentice fails the license examination twice, on the date the results of the second examination are issued, whichever occurs first.

(b) No person holding a license as an apprentice shall work more than three months after completing the required training without applying for and taking the examination for licensure.

(c) The bureau may extend the two-year or three-month period described in subdivisions (a) and (b) upon a showing of good cause which shall include, but not be limited to, delays in applying for and taking the examination caused by the illness of, or accident to, the apprentice, or service in the armed forces of the United States.

SEC. 41. Section 7336 of the Business and Professions Code is amended to read:

7336. An apprentice may do any or all of the acts for which he or she is licensed only in the licensed establishment and under the supervision and employment of a licensee approved by the bureau.

SEC. 42. Section 7337 of the Business and Professions Code is amended to read:

7337. Every application for admission to examination and licensure shall be in writing, on forms prepared and furnished by the bureau.

Each application shall be accompanied by the required fee, and shall contain proof of the qualifications of the applicant for examination and licensure. It shall be verified by the oath of the applicant. Every applicant shall, as a condition of admittance to the examination facility, present satisfactory proof of identification. Satisfactory proof of identification shall be in the form of a valid,



unexpired driver's license or identification card, containing the photograph of the person to whom it was issued, issued by any state, federal, or other government entity.

SEC. 43. Section 7337.5 of the Business and Professions Code is amended to read:

7337.5. (a) The bureau shall adopt regulations providing for the submittal of applications for admission to examination of students of approved cosmetology, electrology, or barbering schools who have completed at least 75 percent of the required course clock hours and curriculum requirements (60 percent for students of the manicurist course). The regulations shall include provisions that ensure that all proof of qualifications of the applicant are received by the bureau before the applicant is examined.

(b) An application for examination submitted under this section shall be known as a "preapplication" and an additional preapplication fee may be required.

(c) This section shall become operative on July 1, 1992.

(d) The bureau shall administer the licensing examination not later than 10 working days after graduation from an approved cosmetology, electrology, or barbering school to students who have submitted an application for admission for examination under the preapplication procedure.

SEC. 44. Section 7338 of the Business and Professions Code is amended to read:

7338. The examination of applicants for a license shall include both a practical demonstration and a written test and shall embrace the subjects typically taught in a program approved by the bureau.

The examination shall not be confined to any particular system or method. It shall be consistent in both practical and technical requirements, and of sufficient thoroughness to satisfy the bureau as to the applicant's skill in, and knowledge of, the practice of the occupation or occupations for which a license is sought.

In the conduct and grading of examinations, practical demonstrations shall prevail over written tests.

The scope of examinations shall be consistent with the definition of the activities licensed under this chapter, and shall be as the bureau, by regulation, may require to protect the health and safety of consumers of the services provided by licensees.

The bureau's examinations shall be limited to clearly job-related questions, activities, and practical services. Examinations shall also include written tests in antisepsis, disinfection, sanitation, the use of mechanical apparatus and electricity as applicable to the practice of barbering, cosmetology, or electrolysis. They may include other demonstrations and tests as the bureau, in its discretion, may require.

SEC. 45. Section 7340 of the Business and Professions Code is amended to read:

7340. All examinations shall be prepared by or under the direction of the bureau. The bureau shall establish standards and procedures governing administration and grading and shall exercise supervision as may be necessary to assure compliance therewith.

SEC. 46. Section 7341 of the Business and Professions Code is amended to read:

7341. The bureau shall mail or deliver to every person failing any examination provided for in this chapter the total grade received on the examination.

An unsuccessful applicant for licensure, after taking an examination and within 90 days after the results thereof have been declared, shall have the right to inspect his or her examination paper in the city in which the examination was taken.

SEC. 47. Section 7342 of the Business and Professions Code is amended to read:

7342. Licenses in the practice of the occupation for which the license was sought shall be issued by the bureau to any applicant who satisfactorily passes an examination, who possesses the other qualifications required by law and who has remitted the license fee required by this chapter. The license shall entitle the holder to engage in the practice of that occupation in a licensed establishment.

SEC. 48. Section 7344 of the Business and Professions Code is amended to read:

7344. The bureau may contract or otherwise arrange for reasonably required physical accommodations and facilities to conduct examinations.

SEC. 49. Section 7347 of the Business and Professions Code is amended to read:

7347. Any person, firm, or corporation desiring to operate an establishment shall make an application to the bureau for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the bureau may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.



SEC. 50. Section 7349 of the Business and Professions Code is amended to read:

7349. It is unlawful for any person, firm, or corporation to hire, employ, or allow to be employed, or permit to work, in or about an establishment, any person who performs or practices any occupation regulated under this chapter and is not duly licensed by the bureau, except that a licensed cosmetology establishment may utilize a student extern, as described in Section 7395.1.

Any person violating this section is subject to citation and fine pursuant to Section 7406 and is also guilty of a misdemeanor.

SEC. 51. Section 7353 of the Business and Professions Code is amended to read:

7353. Within 90 days after issuance of the establishment license, the bureau or its agents or assistants shall inspect the establishment for compliance with the applicable requirements of this chapter and the applicable rules and regulations of the bureau adopted pursuant to this chapter. The bureau shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The bureau or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The bureau shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.

SEC. 52. Section 7354 of the Business and Professions Code is amended to read:

7354. For purposes of this article, “mobile unit” means any self-contained, self-supporting, enclosed mobile unit which is at least 24 feet in length which is licensed as an establishment for the practice of any occupation licensed by the bureau and which complies with this article and all health and safety regulations established by the bureau.

SEC. 53. Section 7355 of the Business and Professions Code is amended to read:

7355. (a) Any person, firm, or corporation desiring to operate a mobile unit shall make an application to the bureau for a license containing the information and data set forth in subdivision (b). The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the unit only within those geographical boundaries

designated by the bureau. Operation of the unit outside of the geographical boundaries for which the license is issued shall be unlawful, unless a license for the expanded geographic area has been obtained upon compliance with this article applicable to the issuance of a license in the first instance.

(b) Each application shall include the following:

(1) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit in compliance with this article.

(2) Proof of purchase or lease of the mobile unit and shop equipment.

(3) The required fee.

(4) Copies of applicable county and city licenses or permits to provide the mobile barbering, cosmetology, or electrolysis services in each county and city of operation and the locations therein where the services will be offered.

(5) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.

(6) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

(7) A permanent base address from which the mobile unit shall operate.

(c) After initial approval of the floor plan and application has been granted, the applicant shall schedule an appointment to show the mobile unit to the bureau, or representative of the bureau, for final approval.

SEC. 54. Section 7356 of the Business and Professions Code is amended to read:

7356. An application to transfer ownership or control of an existing licensed mobile unit shall be filed by the purchaser or lessor with the bureau within 10 days after purchase. Each application shall include the following:

(a) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit.

(b) Bills of sale or lease documents proving purchase or lease of existing equipment and the mobile unit.

(c) The existing mobile unit license.

(d) The required fee.

(e) Copies of applicable city and county licenses or permits to provide the mobile services in each county and city of operation issued in the new owner's name.

(f) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.

(g) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

SEC. 55. Section 7357 of the Business and Professions Code is amended to read:

7357. (a) Mobile units shall comply with regulations adopted by the bureau that assure that the unit shall be kept clean, in good repair, and in compliance with this article.

(b) Each mobile unit shall be equipped with each of the following functioning systems:

(1) A self-contained, potable water supply. The potable water tanks shall be not less than 100 gallons, and the holding tanks shall be of adequate capacity. In the event of depletion of potable water, operation shall cease until the supply is replenished.

(2) Continuous, on-demand hot water tanks which shall be not less than six-gallon capacity.

(3) Self-contained, recirculating, flush chemical toilet with holding tank.

(4) A covered galvanized, stainless steel, or other noncorrosive metal container for purposes of depositing hair clippings, refuse, and other waste materials.

(5) A split-lead generator with a remote starter, muffler, and a vent to the outside.

(6) A sealed combustible heater with an outside vent.

SEC. 56. Section 7359 of the Business and Professions Code is amended to read:

7359. It is unlawful for any person, firm or corporation to hire, employ, allow to be employed, or permit to work, in or about a mobile unit, any person who performs or practices any occupation regulated under this chapter who is not duly licensed by the bureau.

Any person violating this section is guilty of a misdemeanor.

SEC. 57. Section 7362 of the Business and Professions Code is amended to read:

7362. (a) A school approved by the bureau is one which is licensed by the Council for Private Postsecondary and Vocational Education, or a public school in this state, and provides a course of instruction approved by the bureau.

(b) The bureau shall determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical instruction and minimum number of practical operations for each subject, and shall determine how much training is required before a student may begin performing services on paying patrons.

SEC. 58. Section 7362.1 of the Business and Professions Code is amended to read:

7362.1. A school of cosmetology approved by the bureau shall also meet all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of 25 cosmetology students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of cosmetology at least 25 bona fide, full-time students for the cosmetology course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of cosmetology and has committed to attend a full course in cosmetology.

(c) Maintain a course of practical training and technical instruction for the full cosmetology course as specified in this chapter and in bureau regulations. A course of instruction in any branch of cosmetology shall be taught in a school of cosmetology.

SEC. 59. Section 7362.2 of the Business and Professions Code is amended to read:

7362.2. A school of barbering approved by the bureau shall also do all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of 15 barber students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of barbering at least 15 bona fide, full-time students for the barbering course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of barbering and has committed to attend a full course in barbering.

(c) Maintain a course of practical training and technical instruction for the full barbering course as specified in this chapter and in bureau regulations.

SEC. 60. Section 7362.3 of the Business and Professions Code is amended to read:

7362.3. A school of electrology approved by the bureau shall also do all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of five electrology students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of electrology at least five bona fide, full-time students for the electrology course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of electrology and has committed to attend a full course in electrology.

(c) Maintain a course of practical training and technical instruction for the full electrology course as specified in this chapter and in bureau regulations.

SEC. 61. Section 7364 of the Business and Professions Code is amended to read:

7364. A skin care course established by a school shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

SEC. 62. Section 7365 of the Business and Professions Code is amended to read:

7365. A nail care course established by a school shall consist of not less than 350 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

SEC. 63. Section 7366 of the Business and Professions Code is amended to read:

7366. An electrolysis course established by a school shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

SEC. 64. Section 7367 of the Business and Professions Code is amended to read:

7367. For students who change from one program of instruction to another, the bureau shall grant credit for training obtained in one course that is identical to training required in another course.

SEC. 65. Section 7389 of the Business and Professions Code is amended to read:

7389. The bureau shall develop or adopt a health and safety course on hazardous substances which shall be taught in schools approved by the bureau. Course development shall include pilot testing of the course and training classes to prepare instructors to effectively use the course.

SEC. 66. Section 7390 of the Business and Professions Code is amended to read:

7390. A cosmetology or barbering instructor training course shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

SEC. 67. Section 7391 of the Business and Professions Code is amended to read:

7391. The bureau shall admit to examination for license as a cosmetology or barbering instructor any person who has made application to the bureau in the proper form, who has paid the fee required by this chapter, and who meets the following qualifications:

(a) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(b) Is not subject to denial pursuant to Section 480.

(c) Holds a valid license to practice cosmetology or barbering in this state.

(d) Has done at least one of the following:

(1) Completed a cosmetology or barbering instructor training course in an approved school in this state or equivalent training in an approved school in another state.

(2) Completed not less than the equivalent of 10 months of practice as a teacher assistant or teacher aide in a school approved by the bureau.

(3) Practiced cosmetology or barbering in a licensed establishment in this state for a period of one year within the three



years immediately preceding application, or its equivalent in another state. An applicant using practical experience to qualify under this section shall submit an affidavit signed by his or her employers attesting to the qualifying experience.

SEC. 68. Section 7392 of the Business and Professions Code is amended to read:

7392. Each licensed instructor shall complete at least 30 clock hours of continuing education in the teaching of vocational education during each two-year licensing period. This section does not apply to an instructor who holds a credential to teach vocational education full time in a public school in this state.

For purposes of this section, programs designed for continuing education in the teaching of vocational education may include, but not be limited to, development of understanding and competency in the learning process, instructional techniques, curriculum and media, instructional evaluation, counseling and guidance, and the special needs of students.

The bureau shall adopt regulations establishing standards for the approval of continuing education courses and for the effective administration and enforcement of its continuing education requirements.

SEC. 69. Section 7393 of the Business and Professions Code is amended to read:

7393. As a condition of the renewal of the license of an instructor, the bureau may periodically require instructors to demonstrate current competence through continuing education as provided for in this chapter.

SEC. 70. Section 7394 of the Business and Professions Code is amended to read:

7394. The bureau's continuing education requirements shall not apply to instructors whose licenses are on inactive status according to the records maintained by the bureau.

Instructors whose licenses are on inactive status may not be employed as instructors in schools approved by the bureau.

Instructors whose licenses are on inactive status must complete at least 30 hours of continuing education in the teaching of vocational education as a condition of reinstatement to active status.

SEC. 71. Section 7395 of the Business and Professions Code is amended to read:

7395. If an instructor with an active license status does not provide proof of compliance with the continuing education requirements provided for in this chapter within 45 days of a request from the bureau, the instructor's license shall revert to inactive status until proof of compliance is provided to the bureau.

SEC. 72. Section 7395.1 of the Business and Professions Code is amended to read:



7395.1. (a) A student who is enrolled in a school of cosmetology approved by the Council for Private Postsecondary and Vocational Education in a course approved by the bureau may, upon completion of a minimum of 60 percent of the clock hours required for graduation in the course, work as an unpaid extern in a cosmetology establishment participating in the educational program of the school of cosmetology.

(b) A person working as an extern shall receive clock hour credit toward graduation, but that credit shall not exceed eight hours per week and shall not exceed 10 percent of the total clock hours required for completion of the course.

(c) The externship program shall be conducted in cosmetology establishments meeting all of the following criteria:

(1) The establishment is licensed by the bureau.

(2) The establishment has a minimum of four licensees working at the establishment, including employees and owners or managers.

(3) All licensees at the establishment are in good standing with the bureau.

(4) Licensees working at the establishment work for salaries or commissions rather than on a space rental basis.

(5) No more than one extern shall work in an establishment for every four licensees working in the establishment. No regularly employed licensee shall be displaced or have his or her work hours reduced or altered to accommodate the placement of an extern in an establishment. Prior to placement of the extern, the establishment shall agree in writing sent to the school and to all affected licensees that no reduction or alteration of any licensee's current work schedule shall occur. This shall not prevent a licensee from voluntarily reducing or altering his or her work schedule.

(6) Externs shall wear conspicuous school identification at all times while working in the establishment, and shall carry a school laminated identification, that includes a picture, in a form approved by the bureau.

(d) (1) A school participating in the externship program shall provide the participating establishment and the extern with a syllabus containing applicable information specified in Section 73880 of Title 5 of the California Code of Regulations. The extern, the school, and the establishment shall agree to the terms of and sign the syllabus prior to the extern beginning work at the establishment. No less than 90 percent of the responsibilities and duties of the extern shall consist of the acts included within the practice of cosmetology as defined in Section 7316.

(2) The establishment shall consult with the assigning school regarding the extern's progress during the unpaid externship. The owner or manager of the establishment shall monitor and report on the student's progress to the school on a regular basis, with assistance from supervising licensees.

(3) A participating school shall assess the extern's learning outcome from the externship program. The school shall maintain accurate records of the extern's educational experience in the externship program and records that indicate how the extern's learning outcome translates into course credit.

(e) Participation in an externship program made available by a school shall be voluntary, may be terminated by the student at any time, and shall not be a prerequisite for graduation.

(f) The cosmetology establishment that chooses to utilize the extern is liable for the extern's general liability insurance, as well as cosmetology malpractice liability insurance, and shall furnish proof to the participating school that the establishment is covered by both forms of liability insurance and that the extern is covered under that insurance.

(g) (1) It is the purpose of the externship program authorized by this section to provide students with skills, knowledge, and attitudes necessary to acquire employment in the field for which they are being trained, and to extend formalized classroom instruction.

(2) Instruction shall be based on skills, knowledge, attitudes, and performance levels in the area of cosmetology for which the instruction is conducted.

(3) An extern may perform only acts listed within the definition of the practice of cosmetology as provided in Section 7316, if a licensee directly supervises those acts, except that an extern may not use or apply chemical treatments unless the extern has received appropriate training in application of those treatments from an approved cosmetology school. An extern may work on a paying client only in an assisting capacity and only with the direct and immediate supervision of a licensee.

(4) The extern shall not perform any work in a manner that would violate law.

SEC. 73. Section 7396 of the Business and Professions Code is amended to read:

7396. The form and content of a license issued by the bureau shall be determined in accordance with Section 164.

The license shall prominently state that the holder is licensed as a barber, cosmetologist, esthetician, manicurist, electrologist, apprentice, barber instructor, or cosmetology instructor.

SEC. 74. Section 7400 of the Business and Professions Code is amended to read:

7400. Every licensee of the bureau, except establishments shall, within 30 days after a change of address, notify the bureau of the new address, and, upon receipt of the notification, the bureau shall make the necessary changes in the register.

SEC. 75. Section 7403 of the Business and Professions Code is amended to read:

7403. (a) The bureau may revoke, suspend, or deny at any time any license required by this chapter on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

(b) In any case in which the administrative law judge recommends that the bureau revoke, suspend or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee to pay the bureau the reasonable costs of the investigation and adjudication of the case. For purposes of this section, “costs” include charges by the bureau for investigating the case, charges incurred by the office of the Attorney General for investigating and presenting the case, and charges incurred by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

(c) The costs to be assessed shall be fixed by the administrative law judge and shall not, in any event, be increased by the bureau. When the bureau does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(d) The bureau may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the bureau may have as to any licensee directed to pay costs.

(e) In any judicial action for the recovery of costs, proof of the bureau’s decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f) Notwithstanding any other provision of law, all costs recovered under this section shall be deposited in the bureau’s contingent fund as a scheduled reimbursement in the fiscal year in which the costs are actually recovered.

SEC. 76. Section 7404 of the Business and Professions Code is amended to read:

7404. The grounds for disciplinary action are as follows:

(a) Unprofessional conduct which includes, but is not limited to, any of the following:

(1) Incompetence or gross negligence, including failure to comply with generally accepted standards for the practice of barbering, cosmetology, or electrology or disregard for the health and safety of patrons.

(2) Repeated similar negligent acts.

(3) Conviction of any crime substantially related to the qualifications, functions, or duties of the license holder, in which case, the records of conviction or a certified copy shall be conclusive evidence thereof.

(4) Advertising by means of knowingly false or deceptive statements.

(b) Failure to comply with the requirements of this chapter.

(c) Failure to comply with the rules governing health and safety adopted by the bureau and approved by the State Department of Health Services, for the regulation of establishments, or any practice licensed and regulated under this chapter.

(d) Failure to comply with the rules adopted by the bureau for the regulation of establishments, or any practice licensed and regulated under this chapter.

(e) Continued practice by a person knowingly having an infectious or contagious disease.

(f) Habitual drunkenness, habitual use of or addiction to the use of any controlled substance.

(g) Obtaining or attempting to obtain practice in any occupation licensed and regulated under this chapter, or money, or compensation in any form, by fraudulent misrepresentation.

(h) Failure to display the license or health and safety rules and regulations in a conspicuous place.

(i) Engaging, outside of a licensed establishment and for compensation in any form whatever, in any practice for which a license is required under this chapter, except that when such service is provided because of illness or other physical or mental incapacitation of the recipient of the service and when performed by a licensee obtained for the purpose from a licensed establishment.

(j) Permitting a license to be used where the holder is not personally, actively, and continuously engaged in business.

(k) The making of any false statement as to a material matter in any oath or affidavit, which is required by the provisions of this chapter.

(l) Refusal to permit or interference with an inspection authorized under this chapter.

(m) Any action or conduct which would have warranted the denial of a license.

(n) Failure to surrender a license that was issued in error or by mistake.

SEC. 77. Section 7405 of the Business and Professions Code is amended to read:

7405. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the

verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 78. Section 7406 of the Business and Professions Code is amended to read:

7406. In addition to the authority to conduct disciplinary proceedings under this chapter, the bureau, through its duly authorized representatives, shall have authority to assess administrative fines for the violation of any section of this chapter or the violation of any rules and regulations adopted by the bureau under this chapter.

SEC. 79. Section 7407 of the Business and Professions Code is amended to read:

7407. The bureau shall establish by regulation a schedule of administrative fines for violations of this chapter. All moneys collected under this section shall be deposited in the bureau's contingent fund.

The schedule shall indicate for each type of violation whether, in the bureau's discretion, the violation can be corrected.

SEC. 80. Section 7408 of the Business and Professions Code is amended to read:

7408. The bureau, through its duly authorized representatives, shall issue a citation with respect to any violation for which an administrative fine may be assessed. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the specific provision alleged to have been violated. The administrative fine, if any, shall attach at the time the citation is written. The citation shall include an order to correct any condition or violation which lends itself to correction, as determined by the bureau pursuant to Section 7406.

SEC. 81. Section 7409 of the Business and Professions Code is amended to read:

7409. Any licensee served with a citation may avoid the payment of the associated administrative fine by presentation of written proof satisfactory to the bureau, or its bureau chief, that the violation has been corrected. This provision applies only to a licensee's first violation in any three-year period of any single provision of this chapter or the rules and regulations adopted pursuant to this chapter. Proof of correction shall be presented to the bureau, through its bureau chief, in a time and manner prescribed by the bureau. The bureau may, in its discretion, extend for a reasonable period the time within which to correct the violation upon the showing of good cause. Notices of correction filed after the prescribed date shall not be acceptable and the administrative fine shall be paid.

SEC. 82. Section 7414 of the Business and Professions Code is amended to read:

7414. Persons who fail to pay administrative fines that were not contested or were contested but the appeal has been adjudicated,

shall not be issued a license or allowed to renew any licenses issued to them until all fines are paid in addition to any application, renewal, or delinquency fees which are required.

SEC. 83. Section 7414.1 of the Business and Professions Code is amended to read:

7414.1. All records required by law to be kept by tanning facilities subject to the Filante Tanning Facility Act of 1988 (Chapter 23 (commencing with Section 22700) of Division 8), including, but not limited to, records relating to written warning statements, the sign required to be posted, the qualifications of facility operators, statements of acknowledgment, parental consent forms, and injury reports, shall be open to inspection by the bureau, or its authorized representatives, during any inspection, or during any investigation initiated in response to a complaint that the tanning facility has violated any provision of the Filante Tanning Facility Act of 1988. A copy of any or all of those records shall be provided to the bureau, or its authorized representatives, immediately upon request.

SEC. 84. Section 7414.3 of the Business and Professions Code is amended to read:

7414.3. (a) Any representative of the bureau designated by the director shall have the authority to issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. Representatives so designated are not peace officers and are not entitled to safety member retirement benefits, as a result of that designation. Except as otherwise provided, the representative's authority is limited to the issuance of written notices to appear for infraction violations of the Filante Tanning Facility Act of 1988 and only when the violation is committed in the presence of the representative.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any representative, acting pursuant to subdivision (a) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the representative, at the time of that arrest, had reasonable cause to believe was lawful.

(c) This section shall become effective July 1, 1994.

SEC. 85. Section 7414.4 of the Business and Professions Code is amended to read:

7414.4. The bureau, and its authorized representatives, may disseminate information to tanning facilities regarding compliance with the Filante Tanning Facility Act of 1988.

SEC. 86. Section 7414.6 of the Business and Professions Code is amended to read:

7414.6. The bureau may adopt regulations concerning the operation of tanning facilities in licensed establishments.

SEC. 87. Section 7415 of the Business and Professions Code is amended to read:



7415. Licenses issued under this chapter, unless specifically excepted, shall be issued for a two-year period and shall expire at midnight on the last day of the month of issuance by the bureau.

SEC. 88. Section 7416 of the Business and Professions Code is amended to read:

7416. The bureau shall, with the cooperation of the department, modify its license renewal applications to all licensees to designate whether or not they are currently employed in the occupation for which they are licensed.

SEC. 89. Section 7421 of the Business and Professions Code is amended to read:

7421. The fees shall be set by the bureau, within the limits set forth in this article, in amounts necessary to cover the expenses of the bureau in performing its duties under this chapter.

SEC. 90. Section 7422 of the Business and Professions Code is amended to read:

7422. All fees collected on behalf of the bureau and all receipts of every kind and nature, shall be reported to the Controller at the beginning of each month for the month preceding. At the same time the entire amount of collections shall be paid into the State Treasury, and shall be credited to the Barbering and Cosmetology Contingent Fund, which fund is hereby created.

The moneys in the contingent fund shall be appropriated to the bureau pursuant to the annual Budget Act and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect this chapter.

SEC. 91. Section 7427 of the Business and Professions Code is repealed.

SEC. 92. Section 7507 of the Business and Professions Code is amended to read:

7507. A licensee shall notify the bureau within 30 days of any change of its corporate officers or of the addition of any partners. Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may suspend or revoke a license issued under this chapter if the director determines that a new officer or partner has committed any act that constitutes grounds for the denial of a license pursuant to Section 7503.5.

SEC. 93. Section 7533.5 of the Business and Professions Code is amended to read:

7533.5. (a) A licensee shall notify the bureau within 30 days of any change in its corporate officers or of any addition of a new partner.

(b) Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may suspend or revoke a license issued under this chapter if the director determines that the new officer or partner of a licensee has committed any of the acts constituting grounds to deny an

application for a license or to take disciplinary action against a licensee pursuant to Section 7538 or 7538.5, respectively.

SEC. 94. Section 7582.19 of the Business and Professions Code is amended to read:

7582.19. (a) A licensee shall notify the bureau within 30 days of any change in its corporate officers or of any addition of a new partner.

(b) Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may suspend or revoke a license issued under this chapter if the director determines that the new officer or partner of a licensee has committed any of the acts constituting grounds to deny an application for a license or to take disciplinary action against a licensee pursuant to Section 7582.24 or 7582.25 respectively.

SEC. 95. Section 7583.20 of the Business and Professions Code is amended to read:

7583.20. (a) A registration issued under this chapter expires two years following the date of issuance or on the assigned renewal date. Every security guard issued a registration under this chapter that expires on or after January 1, 1997, and who is also issued or renews a firearms qualification card on or after January 1, 1997, shall be placed on a cyclical renewal so that the registration expires on the expiration date of the firearms qualification card. Notwithstanding any other provision of law, the bureau is authorized to extend or shorten the first term of registration following January 1, 1997, and to prorate the required registration fee in order to implement this cyclical renewal. At least 60 days prior to the expiration, a registrant seeking to renew a guard registration shall forward to the bureau a completed registration renewal application and the renewal fee. The renewal application shall be on a form prescribed by the director, dated and signed by the applicant, certifying under penalty of perjury that the information in the application is true and correct.

(b) The licensee shall provide to any employee information regarding procedures for renewal or registration.

(c) In the event a registrant fails to request a renewal of his or her registration as provided for in this chapter, the registration shall expire as indicated on the registration. If the registration is renewed within 60 days after its expiration, the registrant, as a condition precedent to renewal, shall pay the renewal fee and the delinquency fee.

(d) The delinquency fee is 50 percent of the renewal fee in effect on the date of expiration, but not less than twenty-five dollars (\$25).

(e) If the renewed registration card has not been delivered to the registrant prior to the expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 90 days after the date of expiration.

(f) A registration may not be renewed or reinstated until all fines assessed pursuant to Section 7587.7 and not resolved in accordance with the provisions of that section have been paid.

SEC. 96. Section 7599.32 of the Business and Professions Code is amended to read:

7599.32. (a) A licensee shall notify the bureau within 30 days of any change of its officers required to be named pursuant to Section 7593.4 and of any addition of a new partner.

(b) Applications, on forms prescribed by the director, shall be submitted by all new officers and partners. The director may suspend or revoke a license issued under this chapter if the director determines that the new officer or partner has committed any act which constitutes grounds for the denial of a license pursuant to Section 7591.10.

(c) A Notice of Warning may be issued for the first violation of this section and a fine of twenty-five dollars (\$25) for each subsequent violation.

SEC. 97. Section 7601 of the Business and Professions Code is amended to read:

7601. The following terms as used in this chapter shall have meanings expressed in this section:

(a) "Department" means the Department of Consumer Affairs.

(b) "Director" means the Director of Consumer Affairs.

(c) "Bureau" means the Cemetery and Funeral Bureau.

SEC. 98. Section 7602 of the Business and Professions Code is amended to read:

7602. There is in the department the Cemetery and Funeral Bureau, under the supervision and control of the director.

The director may appoint a chief at a salary to be fixed and determined by the director, with the approval of the Director of Finance. The duty of enforcing and administering this chapter is vested in the chief, and he or she is responsible to the director therefor. The chief shall serve at the pleasure of the director.

Every power granted or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy director or by the chief, subject to such conditions and limitations as the director may prescribe.

SEC. 99. Section 7606 of the Business and Professions Code is amended to read:

7606. The bureau may, pursuant to the provisions of the Administrative Procedure Act, adopt and enforce reasonably necessary rules and regulations relating to:

(a) The practice of embalming;

(b) The business of a funeral director;

(c) The sanitary conditions of places where such practice or business is conducted with particular regard to plumbing, sewage, ventilation and equipment;

(d) Specifying conditions for approval of funeral establishments for apprentices and for approval of embalming schools;

(e) The scope of examinations;

(f) Carrying out generally the various provisions of this chapter for the protection of the peace, health, safety, welfare and morals of the public.

SEC. 100. Section 7607 of the Business and Professions Code is amended to read:

7607. The bureau may inspect the premises in which the business of a funeral director is conducted or where embalming is practiced.

SEC. 101. Section 7608 of the Business and Professions Code is amended to read:

7608. The Director of Consumer Affairs may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service regulations.

With the approval of the Director of Finance, and, subject to the provisions of Section 159.5, the bureau shall employ investigators and attorneys to assist the bureau in prosecuting violations of this chapter, whose compensation and expenses shall be payable only out of the State Funeral Directors and Embalmers Fund.

SEC. 102. Section 7610 of the Business and Professions Code is amended to read:

7610. All suits or actions commenced in the superior court against the bureau shall be filed and tried either in the County of Sacramento, or in the county of the residence of the plaintiff or petitioner, or in the county where the act occurred, which is the basis of the suit or action.

SEC. 103. Section 7616.2 of the Business and Professions Code is amended to read:

7616.2. A licensed funeral establishment shall at all times employ a licensed funeral director to manage, direct, or control its business or profession. Notwithstanding any other provisions of this chapter, licensed funeral establishments within close geographical proximity of each other, may request the bureau to allow a licensed funeral director to manage, direct, or control the business or profession of more than one facility.

SEC. 104. Section 7618 of the Business and Professions Code is amended to read:

7618. An application for a funeral director's license shall be written on a form provided by the bureau, verified by the applicant, accompanied by the fee fixed by this chapter and filed at its Sacramento office.

SEC. 105. Section 7619.2 of the Business and Professions Code is amended to read:

7619.2. The bureau shall grant a funeral director's license to any applicant who complies with this article, notwithstanding Section

7619, if the applicant can demonstrate that he or she has complied with Section 7622 on or before July 1, 1999.

SEC. 106. Section 7621 of the Business and Professions Code is amended to read:

7621. The applicant shall also furnish the bureau with satisfactory proof that the facility in which he or she intends to conduct business as a funeral director is or will be constructed, equipped and maintained in all respects as a licensed funeral establishment as defined in this chapter.

SEC. 107. Section 7625 of the Business and Professions Code is amended to read:

7625. Upon receipt of an application for a license, the bureau shall cause an investigation to be made of the physical status or plans and specifications of the proposed funeral establishment, and of the other qualifications required of the applicant under this chapter, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

The bureau shall grant a license if it finds that the proposed funeral establishment is or will be constructed and equipped as required by this chapter and that the applicant is qualified in all other respects as required by this chapter.

SEC. 108. Section 7626 of the Business and Professions Code is amended to read:

7626. The bureau shall examine and pass upon the qualifications of the applicant as to ability and experience before passing upon the physical status or plans and specifications of the proposed funeral establishment.

SEC. 109. Section 7626.5 of the Business and Professions Code is amended to read:

7626.5. Where a hearing is held to determine whether an application for a license should be granted, the proceeding shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all of the powers granted therein.

SEC. 110. Section 7628 of the Business and Professions Code is amended to read:

7628. Any person, partnership, association, corporation, or other organization desiring to change the location of a licensed funeral establishment shall apply therefor on forms furnished by the bureau and shall include a fee fixed by this chapter.

The application shall be granted by the bureau upon the filing with the bureau of a favorable report from an inspector concerning the physical status or plans and specifications of the proposed licensed funeral establishment to the effect that it conforms to the requirements of this article.

SEC. 111. Section 7629 of the Business and Professions Code is amended to read:

7629. No funeral establishment shall be conducted or held forth as being conducted or advertised as being conducted under any name which might tend to mislead the public or which would be sufficiently like the name of any other licensed funeral director so as to constitute an unfair method of competition.

Any funeral director desiring to change the name appearing on his or her license may do so by applying to the bureau and paying the fee fixed by this chapter.

SEC. 112. Section 7631 of the Business and Professions Code is amended to read:

7631. In case of the death of a licensed funeral director, who leaves an established business as part or all of the assets of his or her estate, the bureau may issue a special temporary license to his or her legal representative, unless the legal representative has committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 113. Section 7635 of the Business and Professions Code is amended to read:

7635. (a) Any person employed by, or an agent of, a licensed funeral establishment, who consults with the family or representatives of a family of a deceased person for the purpose of arranging for services as set forth in subdivision (a) of Section 7615, shall receive documented training and instruction which results in a demonstrated knowledge of all applicable federal and state laws, rules, and regulations including those provisions dealing with vital statistics, the coroner, anatomical gifts, and other laws, rules, and regulations pertaining to the duties of a funeral director. A written outline of the training program, including documented evidence of the training time, place, and participants, shall be maintained in the funeral establishment and shall be available for inspection and comment by an inspector of the bureau.

(b) This section shall not apply to anyone who has successfully passed the funeral director's examination pursuant to Section 7622.

SEC. 114. Section 7641 of the Business and Professions Code is amended to read:

7641. It is unlawful for any person to embalm a body, or engage in, or hold himself or herself out as engaged in practice as an embalmer, unless he or she is licensed by the bureau. However, this section shall have no effect on students and instructors of embalming in embalming colleges approved by the bureau.

SEC. 115. Section 7642 of the Business and Professions Code is amended to read:

7642. An application for an embalmer's license shall be written on a form provided by the bureau, verified by the applicant, and accompanied by the fee fixed by this chapter.

SEC. 116. Section 7643 of the Business and Professions Code is amended to read:



7643. In order to qualify for a license as an embalmer, the applicant shall comply with all of the following requirements:

- (a) Be over 18 years of age.
- (b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (c) Furnish proof showing completion of a high school course or instead he or she may furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and that the license has never been suspended or revoked for unethical conduct.
- (d) Have completed at least two years of apprenticeship under an embalmer licensed and engaged in practice as an embalmer in this state in a funeral establishment which shall have been approved for apprentices by the bureau and while so apprenticed shall have assisted in embalming not fewer than 100 human remains; provided, however, that a person who has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and whose license has never been suspended or revoked for unethical conduct shall not be required to serve any apprenticeship in this state.
- (e) Have successfully completed a course of instruction of not less than one academic year in an embalming school approved by the bureau and accredited by the American Board of Funeral Service Education.

SEC. 117. Section 7646 of the Business and Professions Code is amended to read:

7646. The bureau shall require the applicant to pass an examination, which shall include the following subjects:

- (a) Theory and practice of embalming.
- (b) Anatomy, including histology, embryology and dissection.
- (c) Pathology and bacteriology.
- (d) Hygiene, including sanitation and public health.
- (e) Chemistry, including toxicology.
- (f) Restorative art, including plastic surgery and demisurgery.
- (g) Laws, rules and regulations of the bureau, including those sections of the Health and Safety Code which pertain to the funeral industry.

SEC. 118. Section 7647 of the Business and Professions Code is amended to read:

7647. The bureau shall examine applicants for embalmer's licenses at least once annually.

Examinations shall be held at such times and places as may be determined by the bureau.

Notice of the time and place of such examinations shall be given as determined by the bureau.



SEC. 119. Section 7647.5 of the Business and Professions Code is amended to read:

7647.5. Where a hearing is held to determine whether an application for a license should be granted, the proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all of the powers granted therein.

SEC. 120. Section 7650 of the Business and Professions Code is amended to read:

7650. From time to time, the bureau may examine the requirements for the issuance of licenses to embalmers in other states of the United States and cause a record to be kept of those states in which standards are maintained for embalmers, not lower than those provided in this chapter.

SEC. 121. Section 7661 of the Business and Professions Code is amended to read:

7661. An application for registration as an embalmer's apprentice shall be made upon a form provided by the bureau, verified by the applicant and accompanied by the fee fixed by this chapter.

SEC. 122. Section 7662 of the Business and Professions Code is amended to read:

7662. In order to qualify as an apprentice embalmer, an applicant shall comply with all of the following requirements:

- (a) Be over 18 years of age.
- (b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480.
- (c) Furnish proof showing completion of a high school course or instead he or she may furnish the bureau with evidence that he or she has been licensed and has practiced as an embalmer for a minimum of three years within the seven years preceding his or her application in any other state or country and that the license has never been suspended or revoked for unethical conduct.

SEC. 123. Section 7664 of the Business and Professions Code is amended to read:

7664. Certificates of apprenticeship issued pursuant to this article shall expire when the holder has been issued a license as an embalmer, or six years from the date of registration, whichever first occurs. The certificates may not be renewed, but an apprentice embalmer who has not completed his or her term of apprenticeship at the time his or her certificate expires may apply for reregistration upon compliance with Section 7661. The bureau may, when the circumstances warrant, allow an apprentice credit under a reregistration for the time actually served under a previous registration, but no reregistration shall have the effect of continuing the term of apprenticeship beyond the period specified in Section 7666.





SEC. 124. Section 7665 of the Business and Professions Code is amended to read:

7665. All registered apprentice embalmers shall comply with the following requirements during their period of apprenticeship:

(a) Shall file a report of apprenticeship as follows:

(1) On or before January 15 of each year covering the period of apprenticeship ending as of December 31 preceding.

(2) Upon change of supervising embalmer or employer, or both.

(3) Upon completion of apprenticeship.

(4) Upon application for leave of absence for a period in excess of 15 days.

(5) Upon suspending apprenticeship to attend embalming college.

(6) Upon application for reregistration after suspension or revocation of registration if a complete report of previous registration has not been filed.

(b) The information contained in the report shall consist of a concise summary of the work done by the apprentice during the period covered thereby, shall be verified by the apprentice and certified to as correct by his or her supervising embalmer and employer. Upon request of the bureau, each funeral director in whose establishment an apprenticeship is being, or has been, served, and each embalmer under whose instruction or supervision an apprenticeship is being or has been served, shall promptly file with the bureau a report or such other information as may be requested relating to the apprenticeship. Failure to comply with the request is cause for revocation by the bureau of the approval granted to the funeral director or embalmer for the training of apprentices and is also a cause for disciplinary action against the funeral director or embalmer.

SEC. 125. Section 7666 of the Business and Professions Code is amended to read:

7666. (a) The term of apprenticeship shall be two years. However if an apprentice after having served his or her apprenticeship fails to pass the examination for an embalmer's license he or she may continue for one additional term of apprenticeship, which shall be the maximum apprenticeship permitted and provided further that an apprentice may, upon filing an application therefor, be permitted to continue the apprenticeship for a period not to exceed six months, if approved, for any of the following reasons:

(1) While awaiting the processing of applications submitted to the bureau.

(2) While awaiting notification of grades of embalmers' examinations administered by the bureau.

(3) While awaiting the commencement of a class of an embalming school or college when the apprentice intends to enroll in the school or college.

Applications filed for an extension of apprenticeship shall be filed by the applicant with the bureau not fewer than 15 days prior to the date the applicant requests the extension to commence.

(b) Terms of apprenticeship may be served before, after, or divided by the embalming college course at the option of the apprentice; provided, however, that the term of apprenticeship must be completed, excluding time spent in active military service, within six years from the date of original registration, or from the date an apprentice successfully passes the examination for an embalmer's license required in Section 7646 of this code, whichever first occurs, and provided further that if the term of apprenticeship is not completed within the six-year period, the bureau may require that the applicant serve the additional term of apprenticeship, not to exceed two years.

(c) A student attending an embalming college may register as an apprentice during his or her college term but shall receive no credit for apprenticeship on the term required by this code unless he or she is also a full-time employee of a funeral director.

(d) An apprentice while serving his or her required term of apprenticeship shall be a full-time employee in the funeral establishment in which he or she is employed.

SEC. 126. Section 7667 of the Business and Professions Code is amended to read:

7667. (a) The bureau shall have the power to grant leaves of absence and extensions of leaves of absence and approve absences during the term of apprenticeship.

(b) A leave of absence, including any extensions, shall not be approved for a longer period than an aggregate of one year.

(c) No credit will be given to an apprentice on his or her apprenticeship for the period during which he or she is absent from duty on leave.

(d) Application for a leave of absence and for an extension thereof shall be made by the apprentice on a form provided by the bureau.

(e) Upon termination of a leave of absence, the apprentice shall report that fact to the bureau within 10 days of his or her resumption of apprenticeship by returning to the bureau, his or her certificate of registration accompanied by a statement as to the resumption of apprenticeship which statement shall be certified as correct by the funeral director in whose establishment he or she is to resume his or her duties and by the embalmer under whose supervision he or she is to resume his or her apprenticeship.

(f) Failure to report within 10 days after the expiration date of any leave of absence shall be cause for cancellation of the registration of an apprentice.



SEC. 127. Section 7668 of the Business and Professions Code is amended to read:

7668. The bureau may suspend or revoke a certificate of apprenticeship, after notice and upon complaint and hearing in accordance with the provisions of Article 6, if the apprentice is guilty of any of the following acts or omissions:

(a) Failure to devote full-time employment to the duties of his or her apprenticeship.

(b) Failure to make any report required by this chapter.

(c) Absence from duty except as provided in this code.

(d) Being on duty as an apprentice while under the influence of any controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015) of Chapter 9 of the Business and Professions Code, or alcoholic beverages or other intoxicating substances, to an extent dangerous or injurious to himself, herself, any person, or the public to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her certification.

(e) Disobedience of proper orders or instructions of his or her superior.

(f) Violation of any provision of this chapter or any rule or regulation of the bureau.

(g) Soliciting business for a funeral director or for an embalmer in violation of this chapter.

(h) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

(i) Conviction of a crime substantially related to the qualifications, functions and duties of an apprentice, in which case the record of conviction, or a certified copy, shall be conclusive evidence of the conviction.

SEC. 128. Section 7669 of the Business and Professions Code is amended to read:

7669. An apprentice who has had his or her certificate of apprenticeship suspended or revoked may, within one year after the suspension or revocation apply for reregistration upon compliance with the law in effect at the time he or she so applies and payment of the apprentice application fee fixed by this chapter. No reregistration shall have the effect of continuing an apprenticeship beyond the period specified in Section 7666.

The bureau may, when the circumstances warrant, allow an apprentice credit under a reregistration for the time actually served under a previous registration, but if the previous registration has been suspended or revoked for unprofessional conduct, not more than 75 percent of the time previously served shall be credited on the reregistration.

SEC. 129. Section 7670 of the Business and Professions Code is amended to read:

7670. (a) The apprenticeship required by this article shall be served in a licensed funeral establishment that shall have been previously approved for apprenticeship training by the bureau. In order to qualify for approval the funeral director shall submit to the bureau an application, accompanied by the fee fixed by this chapter, showing:

(1) That not less than 50 human remains per apprentice employed have been embalmed in the establishment during the 12 months immediately preceding the date of the application.

(2) That the applicant has, and will continue to have, in full-time employment, for each two apprentices employed in his or her establishment, a California embalmer who has had not less than two years' practical experience as a California licensed embalmer immediately preceding the date of the application.

(3) That the licensed funeral establishment of that applicant meets the requirements of law as to equipment, cleanliness and sanitation as determined by an inspection report filed with the bureau.

(b) Licensed funeral establishments under common ownership within close geographical proximity of each other may request any of the following from the bureau:

(1) To be treated in aggregate for the purpose of meeting the requirements of paragraph (1) of subdivision (a).

(2) To designate one additional supervising embalmer per registered apprentice.

(3) To allow a registered apprentice to serve in any or all of the licensed funeral establishments requested and approved pursuant to this section.

(c) Approval granted under this section shall be renewed annually upon application by the funeral director, showing continued compliance with the foregoing provisions of this section, filed with the bureau not later than January 15 of each year. An application for renewal shall be accompanied by the fee fixed by this chapter.

SEC. 130. Section 7685.2 of the Business and Professions Code is amended to read:

7685.2. (a) No funeral director shall enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other

professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.

If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral establishment shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains. The bureau shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains and the person who is contracting for the cremation services; the name of the deceased; the name of the funeral establishment in possession of the remains; the name of the crematorium; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains. The form shall be signed and dated by the person arranging for the cremation and the funeral director, employee, or agent of the funeral establishment in charge of arranging or prearranging the cremation service.

(c) A funeral director entering into a contract to furnish cremation services shall provide to the purchaser of cremation services, either on the first page of the contract for cremation services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) A person having the right to control disposition of cremated remains may remove the remains in a durable container from the place of cremation or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(2) If the cremated remains container cannot accommodate all cremated remains of the deceased, the crematory shall provide a

larger cremated remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

SEC. 131. Section 7685.3 of the Business and Professions Code is amended to read:

7685.3. The current address, telephone number, and name of the Department of Consumer Affairs, Cemetery and Funeral Bureau shall appear on the first page of any contract for goods and services offered by a funeral director. At a minimum, the information shall be in 8-point boldface type and make this statement:

“FOR MORE INFORMATION ON FUNERAL, CEMETERY, AND CREMATION MATTERS, CONTACT: DEPARTMENT OF CONSUMER AFFAIRS, (ADDRESS), (TELEPHONE NUMBER).”

SEC. 132. Section 7685.5 of the Business and Professions Code is amended to read:

7685.5. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A funeral establishment shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

SEC. 133. Section 7686 of the Business and Professions Code is amended to read:

7686. The bureau may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee has been found guilty by the bureau of any of the acts or omissions constituting grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

SEC. 134. Section 7686.5 of the Business and Professions Code is amended to read:

7686.5. All accusations against licensees shall be filed with the bureau within two years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the bureau, of the facts



constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within three years after such discovery.

SEC. 135. Section 7687 of the Business and Professions Code is amended to read:

7687. Upon receipt of a complaint, the bureau may make or cause to be made such investigation as it deems necessary.

SEC. 136. Section 7690 of the Business and Professions Code is amended to read:

7690. The bureau may discipline every accused licensee whose default has been entered or who has been tried and found guilty, after formal hearing, of any act or omission constituting a ground for disciplinary action.

Any of the following penalties may be imposed by the bureau:

- (a) Suspension of the disciplinary order.
- (b) Reproval, public or private.
- (c) Probation.
- (d) Suspension of the right to practice.
- (e) Revocation of the right to practice.
- (f) Such other penalties as the bureau deems fit.

SEC. 137. Section 7708 of the Business and Professions Code is amended to read:

7708. The bureau, after a hearing, may deny the application of a funeral establishment, funeral director, embalmer, or apprentice embalmer on proof that the applicant has committed acts or crimes constituting grounds for denial of licensure under Section 480. The record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

SEC. 138. Section 7709 of the Business and Professions Code is amended to read:

7709. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 139. Section 7711 of the Business and Professions Code is amended to read:

7711. When a funeral establishment, funeral director or embalmer has had his, or her, or its license suspended, canceled, or revoked by the bureau, the bureau, upon written application by the licensee affected, upon not less than 10 days' notice to all parties of record in the particular case, and after hearing all evidence offered



in support of and in opposition to that application, may, in its discretion, and upon those terms as it may deem just, reinstate the applicant.

SEC. 140. Section 7725 of the Business and Professions Code is amended to read:

7725. Licenses issued under this chapter shall expire at 12 p.m. on January 31 of each year, if not in each instance renewed. To renew an unexpired license, the holder thereof shall on or before the date on which it would otherwise expire, apply for renewal on a form prescribed by the bureau, and pay the renewal fee prescribed by this chapter.

On or before the 10th day of December of each year, the bureau shall mail to each licensed funeral establishment, funeral director, and embalmer, addressed to him or her at his or her last known address, a notice that a renewal fee is due and payable.

SEC. 141. Section 7725.2 of the Business and Professions Code is amended to read:

7725.2. Except as otherwise provided in this article, a license which has expired may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the bureau and payment of the renewal fee in effect on the last regular renewal date. If the license is not renewed within 30 days after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 7725 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

If a license is not renewed within one year following its expiration, the bureau may require as a condition of renewal that the holder of the license pass an examination on the appropriate subjects provided by this chapter.

SEC. 142. Section 7725.5 of the Business and Professions Code is amended to read:

7725.5. A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter. The holder of the expired license may obtain a new license only if the holder pays all of the fees, and meets all of the requirements, other than requirements relating to education, set forth in this chapter for obtaining an original license, except that the bureau may issue a new license to the holder without an examination if the holder establishes to the bureau's satisfaction that, with due regard for the public interest, the holder is qualified to engage in the activity in which the holder again seeks to be licensed. The bureau



may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

The provisions of this section do not apply to certificates of apprenticeship.

SEC. 143. Section 7727 of the Business and Professions Code is amended to read:

7727. On or before the 10th day of each month, the department shall pay into the State Treasury and report to the State Controller all the fees received for the bureau. The fees shall be received by the State Treasurer and placed in the State Funeral Directors and Embalmers Fund, which fund is available for expenditures necessary for the proper administration of this chapter.

SEC. 144. Section 7737.3 of the Business and Professions Code is amended to read:

7737.3. All commingled preneed trust funds held by a funeral establishment shall be subject to an annual, independent certified financial audit with a copy of the audit to be submitted to the bureau for review within 120 days of the close of the fund's fiscal year. Any findings of noncompliance with existing law regarding preneed trust funds shall be identified by the auditor in a separate report for review and action by the bureau. Audits and reports of noncompliance shall be filed simultaneously.

SEC. 145. Section 7740 of the Business and Professions Code is amended to read:

7740. The bureau is authorized to enforce of its own initiative the provisions of this article and may adopt such rules and regulations as in its opinion may be necessary to perform such duties and to safeguard the trust funds subject to this chapter.

SEC. 146. Section 7740.5 of the Business and Professions Code is amended to read:

7740.5. A funeral establishment shall pay to the bureau the fee fixed by this chapter for filing with the bureau any report on preneed trust funds required by rules and regulations of the bureau adopted pursuant to Section 7740.

SEC. 147. Section 9603 of the Business and Professions Code is amended to read:

9603. The following terms as used in this chapter shall have the meanings expressed in this section:

- (a) "Department" means the Department of Consumer Affairs.
- (b) "Director" means the Director of Consumer Affairs.
- (c) "Bureau" means the Cemetery and Funeral Bureau.

SEC. 148. Section 9625 of the Business and Professions Code is amended to read:

9625. There is in the department, the Cemetery and Funeral Bureau, under the supervision and control of the director.



The director may appoint a chief at a salary to be fixed and determined by the director, with the approval of the Director of Finance. The duty of enforcing and administering this chapter is vested in the chief, and he or she is responsible to the director therefor. The chief shall serve at the pleasure of the director.

SEC. 149. Section 9630 of the Business and Professions Code is amended to read:

9630. The bureau may establish necessary rules and regulations for the administration and enforcement of this act and the laws subject to its jurisdiction and prescribe the form of statements and reports provided for in this act. The rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of the Administrative Procedure Act.

SEC. 150. Section 9631 of the Business and Professions Code is amended to read:

9631. In the enforcement of this act and the laws subject to its jurisdiction, the bureau has all the powers and is subject to all the responsibilities vested in and imposed upon the head of a department under Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 151. Section 9650 of the Business and Professions Code is amended to read:

9650. (a) Each cemetery authority shall file with the bureau annually, on or before June 1, or within five months after close of their fiscal year provided approval has been granted by the bureau as provided for in Section 9650.1, a written report in a form prescribed by the bureau setting forth the following:

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care by specific periods as set forth in the form prescribed.

(2) The amount collected and deposited in both the general and special endowment care funds segregated as to the amounts for crypts, niches and grave space by specific periods as set forth either on the accrual or cash basis at the option of the cemetery authority.

(3) A statement showing separately the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall actually show the financial condition of the funds.

(4) A statement showing separately the location, description, and character of the investments in which the special endowment care funds are invested. The statement shall show the valuations of any securities held in the endowment care fund as valued pursuant to Section 9659.

(5) A statement showing the transactions entered into between the corporation or any officer, employee or stockholder thereof and the trustees of the endowment care funds with respect to those

endowment care funds. The statement shall show the dates, amounts of the transactions, and shall contain a statement of the reasons for those transactions.

(b) The report shall be verified by the president or vice president and one other officer of the cemetery corporation. The information submitted pursuant to paragraphs (2), (3), (4), and (5) shall be accompanied by an annual audit report of the endowment care fund and special care fund signed by a certified public accountant or public accountant. The scope of the audit shall include the inspection, review, and audit of the general purpose financial statements of the endowment care fund and special care fund, which shall include the balance sheet, the statement of revenues, expenditures, and changes in fund balance.

(c) If a cemetery authority files a written request prior to the date the report is due, the bureau may, in its discretion, grant an additional 30 days within which to file the report.

SEC. 152. Section 9650.1 of the Business and Professions Code is amended to read:

9650.1. Each cemetery authority requesting a change of filing date of the endowment care fund report from a calendar year to a fiscal year or a change in fiscal year shall file a petition with the bureau prior to the close of the year of request. The bureau may approve such petition provided that no report shall be for a period of more than 12 months.

SEC. 153. Section 9650.2 of the Business and Professions Code is amended to read:

9650.2. The report shall state the name of the trustee or trustees of the endowment care fund. Any change of trustee shall be reported to the bureau within a period of 30 days after the change is made.

SEC. 154. Section 9650.3 of the Business and Professions Code is amended to read:

9650.3. A copy of each annual audit report shall be transmitted to the bureau and shall be a public record. It shall also be open for public inspection at the offices of the cemetery authority during normal business hours. If the cemetery authority does not maintain offices in the county in which its cemetery is located, it shall file a copy of the annual audit report with the county clerk of the county, which shall be subject to public inspection.

SEC. 155. Section 9650.4 of the Business and Professions Code is amended to read:

9650.4. (a) Any cemetery authority that does not file its report within the time prescribed by Section 9650 may be assessed a fine by the bureau in an amount not to exceed four hundred dollars (\$400) per month for a maximum of five months. The amount of the fine shall be established by regulation in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government

Code). Failure to pay the fine within 15 days after receipt of written notification of the assessment or, where a timely request for waiver or reduction of the fine has been filed, within 15 days after receipt of written notification of the bureau's decision in the matter, shall be cause for disciplinary action.

(b) A cemetery authority may request waiver or reduction of a fine by making a written request therefor. The request shall be postmarked within the time specified above for payment of the fine and shall be accompanied by a statement showing good cause for the request.

(c) The bureau may waive or reduce the fine where a timely request is made and where it determines, in its discretion, that the cemetery authority has made a sufficient showing of good cause for the waiver or reduction.

SEC. 156. Section 9651 of the Business and Professions Code is amended to read:

9651. The bureau shall examine the reports filed with it as to their compliance with the requirements of the Health and Safety Code as to the amount of endowment care funds collected and as to the manner of investment of such funds.

SEC. 157. Section 9652 of the Business and Professions Code is amended to read:

9652. The bureau shall examine the endowment care funds of a cemetery authority:

(a) Whenever it deems necessary and at least once every five years;

(b) Whenever the cemetery authority in charge of endowment care funds fails to file the report required by this article; or

(c) Whenever the accountant or auditor qualifies his or her certification of the report that is prepared and signed by a certified public accountant licensed in the state and prepared in accordance with Section 9650.

(d) The reasonable and necessary cost of the examination performed under subdivision (b) or (c) shall be paid by the cemetery authority.

A certified copy of the actual costs, or a good faith estimate of the costs where actual costs are not available, signed by the director or his or her designee, shall be prima facie evidence of the reasonable and necessary costs of the examination.

The actual and necessary expense of the examination under subdivision (a) shall, in the discretion of the bureau, be paid by the cemetery authority whenever the examination requires more than one day and the need for continuing the examination is directly related to identified omissions and errors in the management of endowment care funds.

SEC. 158. Section 9652.1 of the Business and Professions Code is amended to read:

9652.1. If any cemetery authority refuses to pay such expenses, the bureau shall refuse it a certificate of authority and shall revoke any existing certificate of authority. All examination expense moneys collected by the bureau shall be paid into the State Treasury to the credit of the Cemetery Fund.

SEC. 159. Section 9653 of the Business and Professions Code is amended to read:

9653. (a) In making the examination the program:

(1) Shall have free access to the books and records relating to the trust funds, their collection and investment, and the number of graves, crypts and niches under endowment care.

(2) Shall inspect and examine the trust funds to determine their condition and the existence of the investments.

(3) Shall ascertain if the cemetery corporation has complied with all the laws applicable to trust funds.

(b) Upon request by the bureau, a cemetery authority shall provide records to substantiate the expenditures of the income of the trust funds. If a cemetery authority fails to reasonably comply with this request, the bureau may have access to books, records, and accounts of a cemetery authority for purposes of ascertaining compliance with applicable laws.

SEC. 160. Section 9654 of the Business and Professions Code is amended to read:

9654. The bureau may administer oaths and examine under oath any person relative to the endowment care fund. Such examination shall be conducted in the principal office of the person or body in charge of the endowment care fund and shall be private.

SEC. 161. Section 9655 of the Business and Professions Code is amended to read:

9655. If any examination made by the bureau, or any report filed with it, shows that there has not been collected and deposited in the endowment care funds the minimum amounts required by the Health and Safety Code since September 19, 1939, the bureau shall require such cemetery corporation to comply with Sections 8743 and 8744 of the Health and Safety Code.

SEC. 162. Section 9656 of the Business and Professions Code is amended to read:

9656. Whenever the bureau finds, after notice and hearing, that any endowment care funds have been invested in violation of the Health and Safety Code, it shall by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity to that code within a period which shall be not less than two years if the investment was made prior to October 1, 1949, not less than six months if the investment was made on or after October 1, 1949, and before the effective date of the amendment of this section by the 1969 Regular Session of the Legislature, and not less than 30 days if the investment is made on or after the effective date of the

amendment. The period may be extended by the bureau in its discretion.

SEC. 163. Section 9656.1 of the Business and Professions Code is amended to read:

9656.1. The superior court of the county in which the principal office of the cemetery authority in charge of endowment care funds is located shall, upon the filing by the bureau of a verified application showing any of the following conditions hereinafter enumerated to exist, issue its order vesting title to any endowment care funds of a cemetery authority in the bureau, and directing the bureau forthwith to take possession of all necessary books, records, property, real and personal, and assets, and to conduct as conservator, the management of such endowment care funds, or so much thereof as to the bureau may seem appropriate:

(a) That the cemetery authority has refused to submit its books, papers, accounts, or affairs to the reasonable examination of the bureau.

(b) That the cemetery authority has neglected to observe an order of the bureau to make good within the time prescribed by law any deficiency in its investments of endowment care funds.

(c) That the cemetery authority is found, after an examination, to be in such condition that its further management of its endowment care funds will be hazardous to its members, plotholders, or to the public.

(d) That the cemetery authority has violated its articles of incorporation or any law of the state.

(e) That any officer, director, agent, servant or employee of the cemetery authority person refuses to be examined under oath relative to the endowment care funds thereof.

(f) That any person has embezzled or otherwise wrongfully diverted any of the endowment care funds of the cemetery authority.

The order shall continue in force and effect until, on the application either of the bureau or of the cemetery authority, it shall, after a full hearing, appear to the court that the ground for the order does not exist or has been removed and that the cemetery authority can properly resume title and possession of its property and the management of its endowment care funds.

SEC. 164. Section 9656.2 of the Business and Professions Code is amended to read:

9656.2. When it has been alleged by verified petition pursuant to Section 9652 or when the bureau on its own investigation determines that there is probable cause to believe that any of the conditions set forth in Section 9656.1 exist or that irreparable loss and injury to the endowment care funds of a cemetery authority has occurred or may occur unless the bureau so acts immediately, the bureau, without notice and before applying to the court for any order, may take possession of the endowment care funds and the books, records, and

accounts relating thereto of the cemetery authority, and retain possession subject to the order of the court. Any person having possession of and refusing to deliver any assets, books or records of a cemetery authority against which a seizure order has been issued by the bureau shall be guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment not exceeding one year, or by both that fine and imprisonment.

SEC. 165. Section 9656.25 of the Business and Professions Code is amended to read:

9656.25. If any city, county, or city and county exercises its authority to address public health, safety, or welfare issues in connection with a cemetery within its jurisdiction and if the certificate of authority of the cemetery has been revoked or suspended or has not been renewed, and the bureau holds the endowment care fund of the certificate of authority under applicable provisions of this code, the costs of any action that constitutes care, maintenance, or embellishment of the cemetery within the meaning of Section 8726 of the Health and Safety Code shall be eligible for reimbursement from available income from any endowment care fund in existence for the cemetery. For purposes of this section, local jurisdiction action may be based on charter, ordinance, or inherent police powers. Any claim for money or damages for an act or omission by the local jurisdiction acting in accord with this section shall be subject to all otherwise applicable immunities contained in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 166. Section 9656.3 of the Business and Professions Code is amended to read:

9656.3. Whenever the bureau makes any seizure as provided in Section 9656.2, it shall, on demand of the bureau, be the duty of the sheriff of any county of this state, and of the police department of any municipal corporation therein, to furnish the bureau with deputies, patrolmen or officers as may be necessary to assist the bureau in making and enforcing that seizure.

SEC. 167. Section 9656.4 of the Business and Professions Code is amended to read:

9656.4. Immediately after effecting a seizure pursuant to Section 9656.2, the bureau shall institute a proceeding as provided for in Section 9656.1.

SEC. 168. Section 9656.45 of the Business and Professions Code is amended to read:

9656.45. Notwithstanding any other provision of law, the bureau shall be the custodian of all moneys collected or surrendered pursuant to Sections 9656.1 and 9656.2. As custodian, the bureau may deposit those moneys, or any part thereof, without court approval, in any of the following: a bank or trust company legally authorized and empowered by the state to act as a trustee in the handling of trust



funds; in a centralized State Treasury system bank account; or in funds administered by the State Treasurer.

SEC. 169. Section 9656.5 of the Business and Professions Code is amended to read:

9656.5. The bureau shall maintain, regulate, operate, and control the property situated in Amador County, referred to as the Elkin Property in Judicial Council Coordination Proceedings Nos. 1814 and 1817, Order Re Proposed Neptune Memorial, Disposition of the Elkin Property, and Order Re Final Disposition of Ashes of the Sacramento Superior Court, and legally described as “Parcel 16-B as shown on the certain Record or Survey for Eugene S. Lowrance, et ux, filed for record May 17, 1971, in Book 17 of Maps and Plats at page 87, Amador County Records.” The bureau shall administer and supervise endowment funds established by the court for the property. The bureau shall exercise the authority granted by this section for the sole purpose of protecting the human remains resting on the property and preserving the property in its natural state.

SEC. 170. Section 9657 of the Business and Professions Code is amended to read:

9657. The bureau is authorized to bring action to enforce the provisions of the law subject to its jurisdiction, in which actions it shall be represented by the Attorney General.

SEC. 171. Section 9658 of the Business and Professions Code is amended to read:

9658. The bureau shall enforce and administer Part 1 (commencing with Section 8100), Part 3 (commencing with Section 8250), and Part 5 (commencing with Section 9501) of Division 8 of the Health and Safety Code.

SEC. 172. Section 9659 of the Business and Professions Code is amended to read:

9659. In any report to the bureau all bonds, debentures or other evidences of debt held by a cemetery corporation if amply secured and if not in default as to principal or interest may be valued as follows:

(a) If purchased at par at the par value.

(b) If purchased above or below par on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield the effective rate of interest on the basis at which the purchase was made.

(c) In such valuation the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

SEC. 173. Section 9662 of the Business and Professions Code is amended to read:

9662. The current address, telephone number, and name of the bureau shall appear on the first page of any contract for goods and services offered by a cemetery authority or crematory. At a



minimum, the information shall be in 8-point boldface type and make the following statement:

“FOR MORE INFORMATION ON CEMETERY AND CREMATION MATTERS, CONTACT: THE CEMETERY AND FUNERAL BUREAU, (ADDRESS), (TELEPHONE NUMBER).”

A cemetery authority or crematory operator shall supply the above information in writing when presenting a sales contract to any individual.

SEC. 174. Section 9663 of the Business and Professions Code is amended to read:

9663. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A cemetery authority shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

SEC. 175. Section 9676 of the Business and Professions Code is amended to read:

9676. No person shall engage in the business of, act in the capacity of, advertise or assume to act as, a cemetery broker or cemetery salesperson in this state without first obtaining a license from the bureau.

SEC. 176. Section 9679 of the Business and Professions Code is amended to read:

9679. No cemetery broker shall employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this article who is not a licensed cemetery broker, or a cemetery salesperson licensed under the cemetery broker employing or compensating him or her. No cemetery salesperson shall be employed by or accept compensation from any person other than the cemetery broker under whom he or she is at the time licensed.

No salesperson shall pay any compensation for performing any of the acts within the scope of this article to any licensee except through the cemetery broker under whom he or she is at the time licensed.

For a violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

SEC. 177. Section 9680 of the Business and Professions Code is amended to read:

9680. It is a misdemeanor, punishable by a fine not exceeding one hundred dollars (\$100) for each offense, for any person, whether obligor, escrowholder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this article who is not known to be or who does not present evidence to such payer that he or she is a licensed cemetery broker at the time such compensation is earned.

For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

SEC. 178. Section 9682 of the Business and Professions Code is amended to read:

9682. Any cemetery salesperson or cemetery broker who sells, causes to be sold, or offers for sale any cemetery property upon the promise, guarantee or representation to the purchaser that the same may be resold or repurchased at a financial profit is guilty of a misdemeanor.

For violation of any of the provisions of this section, the bureau may temporarily suspend or permanently revoke the license of the cemetery salesperson or cemetery broker in accordance with the provisions of this act relating to disciplinary proceedings.

No violation of any of the provisions of this section by any cemetery salesperson or employee of any licensed cemetery broker shall cause the suspension or revocation of the license of the employer of the salesperson or employee unless it appears upon a hearing by the bureau that the employer had guilty knowledge of such violation.

SEC. 179. Section 9683 of the Business and Professions Code is amended to read:

9683. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution, or circularization of any false statement or representation concerning any cemetery or cemetery brokerage business and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any cemetery brokerage business or any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or causes it to be issued, circulated, published or distributed, or who in any other respect willfully violates or fails, omits or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the bureau under the provisions of this act relating to cemetery brokerage, is guilty of a misdemeanor, and, if a cemetery licensee, he or she shall be held to trial by the bureau for a suspension or revocation of this cemetery license, as provided in the provisions of this act relating to disciplinary proceedings.



SEC. 180. Section 9685 of the Business and Professions Code is amended to read:

9685. For violation of any of the provisions of Section 9684 the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

SEC. 181. Section 9700 of the Business and Professions Code is amended to read:

9700. Application for license as a cemetery broker shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the original cemetery broker's license fee.

SEC. 182. Section 9700.5 of the Business and Professions Code is amended to read:

9700.5. The bureau shall not grant an original cemetery broker's license to any person who is not a resident of this state. Change of residence to another state shall terminate the license.

SEC. 183. Section 9700.6 of the Business and Professions Code is amended to read:

9700.6. The bureau shall not grant an original cemetery broker's license to any person who has not held a cemetery salesperson's license for at least two years prior to the date of his or her application for the broker's license, and during that time was not actively engaged in the business of a cemetery salesperson except that if an applicant for a cemetery broker's license having at least the equivalent of two years' general cemetery experience files a written petition with the bureau setting forth his or her qualifications and experience and the bureau approves, he or she may be issued a cemetery broker's license immediately upon passing the appropriate examinations and satisfying the other requirements of this article.

SEC. 184. Section 9701 of the Business and Professions Code is amended to read:

9701. Application for license as a cemetery salesperson shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be signed by the applicant, and shall be accompanied by the cemetery salesperson's license fee.

SEC. 185. Section 9702.1 of the Business and Professions Code is amended to read:

9702.1. The bureau shall investigate the qualifications of the applicants. Except as otherwise prescribed in this article, it may issue the license applied for to an applicant on a showing satisfactory to it that the following facts exist:

(a) The applicant is properly qualified to perform the duties of a cemetery broker or salesperson.

(b) Granting the license will not be against public interest.

(c) The applicant intends actively and in good faith to carry on the business of a cemetery broker or a cemetery salesperson.

(d) In the case of a corporate applicant, the articles of incorporation permit it to act as a cemetery broker.

(e) In the case of an association or copartnership applying for such a license its articles of association or agreement of partnership authorize it to act as a cemetery broker.

(f) The license is not being secured for the purpose of permitting the applicant to advertise as a cemetery broker or salesperson without actually engaging in such business.

(g) The applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 186. Section 9702.2 of the Business and Professions Code is amended to read:

9702.2. All cemetery brokers who do not possess a certificate of authority shall in addition to the requirements of this chapter file with the bureau a satisfactory bond to the people of the State of California, duly executed by a sufficient surety or sureties to be approved by the bureau, in the amount of ten thousand dollars (\$10,000). That bond shall be conditioned for the honest and faithful performance by such broker and his or her salespersons and employees of any undertaking as a licensed cemetery broker or salesperson or employee of said broker at any time when licensed under this chapter, and the strict compliance with the provisions of this chapter and of Division 8 of the Health and Safety Code relating to cemeteries, and the honest and faithful application of all funds received. That bond shall be further conditioned upon the payment of all damages suffered by any person damaged or defrauded by reason of the violation of any of the provisions of this chapter or of Division 8 of the Health and Safety Code relating to cemeteries, or by reason of the violation of the obligation of such broker as an agent, as such obligations are laid down by the Civil Code of the State of California, or by reason of any fraud connected with or growing out of any transactions contemplated by this chapter or Division 8 of the Health and Safety Code.

SEC. 187. Section 9702.5 of the Business and Professions Code is amended to read:

9702.5. The bureau shall ascertain by written examination that the applicant, and, in case of a copartnership or corporation applicant for a cemetery broker's license, that each officer, agent or member thereof through whom it proposes to act as a cemetery licensee has:

(a) Appropriate knowledge of the English language, including reading, writing and spelling, and of elementary arithmetic.

(b) A fair understanding of:

(1) Cemetery associations, cemetery corporations and duties of directors.

(2) Plot ownership, deeds, certificates of ownership, contracts of sale, liens and leases.

(3) Establishing, dedicating, maintaining, managing, operating, improving and conducting a cemetery.

(4) The care, preservation and embellishment of cemetery property.

(5) The care and preservation of endowment care funds, trust funds, and the investment thereof.

(c) A general and fair understanding of the obligations between principal and agent, of the principles of cemetery brokerage practice and the business ethics pertaining thereto, as well as of the provisions of this act relating to cemetery brokerage.

SEC. 188. Section 9703 of the Business and Professions Code is amended to read:

9703. The bureau may, in its discretion, waive the examination of any applicant for a cemetery broker's license who held an unrevoked or unsuspended cemetery license on June 30th of the preceding fiscal year as an individual broker, an officer of a corporation, or member of a copartnership.

SEC. 189. Section 9704 of the Business and Professions Code is amended to read:

9704. An application on the form prescribed by the bureau for the renewal of any unrevoked and unsuspended license filed before midnight of June 30th of the year for which such unrevoked and unsuspended license was issued, accompanied by the applicable renewal fee, entitles the applicant to continue operating under his or her existing license after its usual expiration date, if not previously suspended or revoked, and until such date as he or she is notified in writing that the application has been granted or denied.

SEC. 190. Section 9705 of the Business and Professions Code is repealed.

SEC. 191. Section 9710 of the Business and Professions Code is amended to read:

9710. Immediately upon the salesperson's withdrawal from the employ of the broker, the broker shall return the salesperson's license to the bureau for cancellation. A license canceled but not suspended or revoked may be reinstated within the fiscal year upon receipt of application therefor and the fee for the reinstatement of the license.

SEC. 192. Section 9711 of the Business and Professions Code is amended to read:

9711. Every licensed cemetery broker shall have and maintain a definite place of business in this state which shall serve as his or her office for the transaction of business.

No cemetery license authorizes the licensee to do business except from the location for which the cemetery license was issued.

Notice in writing shall be given the bureau of change of business location of a cemetery broker, whereupon the bureau shall issue a

new cemetery license for the unexpired period. The change or abandonment of business location without notification to the bureau shall automatically cancel the license theretofore issued.

SEC. 193. Section 9712 of the Business and Professions Code is amended to read:

9712. If the applicant for a cemetery broker's license maintains more than one place of business within the state he or she shall apply for and procure an additional license for each branch office so maintained. Every such application shall state the name of the person and the location of the place of business for which such license is desired.

The bureau may determine whether or not a broker is doing a cemetery brokerage business at or from any particular location which requires him or her to have a branch office license.

SEC. 194. Section 9713 of the Business and Professions Code is amended to read:

9713. Each cemetery broker shall erect and maintain a sign in a conspicuous place on the premises to indicate that he or she is a licensed cemetery broker and his or her name shall be clearly shown thereon. The size and place of the sign shall conform to regulations that may be adopted by the bureau.

SEC. 195. Section 9714 of the Business and Professions Code is amended to read:

9714. For a violation of any of the provisions of Sections 9709, 9710, 9711 and 9713, the bureau may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

SEC. 196. Section 9715 of the Business and Professions Code is amended to read:

9715. Application for a certificate of authority shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the fee provided for in this act and shall show that the cemetery authority owns or is actively operating a cemetery in this state which is subject to the provisions of the Cemetery Act or that the applicant is in a position to commence operating a cemetery.

SEC. 197. Section 9716 of the Business and Professions Code is amended to read:

9716. The bureau may require such proof as it deems advisable concerning the compliance by such applicant to all the laws, rules, regulations, ordinances and orders applicable.

SEC. 198. Section 9717 of the Business and Professions Code is amended to read:

9717. (a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge and experience and financial responsibility for applicants for certificates of authority. In reviewing an application for a certificate

of authority, the bureau may consider acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a certificate of authority under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a certificate of authority, the bureau may cause an investigation to be made of the physical status, plans, specifications and financing of the proposed cemetery, and any other qualifications required of the applicant under this act, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

At the time of the filing of the application required by this section, the applicant shall pay to the Cemetery Fund the sum fixed by the bureau at not in excess of four hundred dollars (\$400) to defray the expenses of investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall within five days after request therefor deposit an additional sum sufficient to defray such expenses, provided that the total sum shall not exceed the sum of nine hundred dollars (\$900).

SEC. 199. Section 9718 of the Business and Professions Code is amended to read:

9718. The bureau may, in accordance with its rules and regulations, authorize interments in cemeteries for which there is no currently valid certificate of authority outstanding if the bureau finds that rights to interment therein will otherwise be impaired. However, nothing in this section authorizes sales of lots, vaults, or niches by cemeteries for which there is no currently valid certificate of authority. Interments permitted under this section shall be conducted by persons authorized by the bureau in accordance with its regulations, and Section 9768 shall not be applicable to such interments.

The bureau or its representative shall be entitled to inspect and copy any cemetery records necessary to the performance of interments under this section, and any person having custody of those records shall permit inspection and copying thereof for that purpose. The bureau may apply to the superior court for the county in which the cemetery is located for an order temporarily transferring custody of cemetery records to it for purposes of this section.

SEC. 200. Section 9719 of the Business and Professions Code is amended to read:

9719. The bureau shall inspect the books, records, and premises of any crematory licensed under this chapter or any certificate of authority holder operating a crematory. In making those inspections, the bureau shall have access to all books and records, the crematory building, the cremation chambers or furnaces, and the storage areas for human remains before and after cremation, during regular office hours or the hours the crematory is in operation. No prior notification





of the inspection is required to be given to the certificate of authority holder or the crematory licensee. If any certificate of authority holder or any crematory licensee fails to allow that inspection or any part thereof, it shall be grounds for the suspension or revocation of a license or other disciplinary action against the licensee. In the case of a certificate of authority holder, the suspension, revocation, or other disciplinary action may be limited to the operation of the crematory. All proceedings under this section shall be conducted in accordance with the provisions of this chapter relating to disciplinary proceedings.

SEC. 201. Section 9720 of the Business and Professions Code is amended to read:

9720. The bureau shall annually conduct a minimum of one unannounced inspection of each licensed crematory.

SEC. 202. Section 9726 of the Business and Professions Code is amended to read:

9726. The bureau may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a cemetery licensee, and may temporarily suspend or permanently revoke a license at any time where the licensee, within the immediately preceding three years, while a cemetery licensee in performing or attempting to perform any of the acts specified in this act, has been guilty of any of the following:

- (a) Making any substantial misrepresentation.
- (b) Making any false statement of a character likely to influence or persuade.
- (c) A continued and flagrant course of misrepresentation or making of false promises through cemetery agents or salespersons.
- (d) Acting for more than one party in a transaction without the knowledge or consent of all parties thereto.
- (e) Commingling the money or other property of his or her principal with his or her own.
- (f) The practice of claiming or demanding a fee, compensation or commission under any exclusive agreement authorizing or employing a licensee to sell, buy or exchange cemetery property for compensation or commission where such agreement does not contain a definite, specified date of final and complete termination.
- (g) The claiming or taking by a licensee of any secret or undisclosed amount of compensation, commission or profit or the failure of a licensee to reveal to the employer of such licensee the full amount of such licensee's compensation, commission or profit under any agreement authorizing or employing such licensee to sell, buy or exchange cemetery property for compensation or commission prior to or coincident with the signing of such agreement evidencing the meeting of the minds of the contracting parties, regardless of the





form of such agreement, whether evidenced by documents in an escrow or by any other or different procedure.

(h) The use by a licensee of any provision allowing the licensee an option to purchase in an agreement authorizing or employing such licensee to sell, buy, or exchange cemetery property for compensation or commission, except when such licensee prior to or coincident with election to exercise such option to purchase reveals in writing to the employer the full amount of licensee's profit and obtains the written consent of the employer approving the amount of such profit.

(i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

The misrepresentations and false statements mentioned in this section include also misrepresentation and false statements as to other property than that which the cemetery licensee may be selling or attempting to sell.

SEC. 203. Section 9727 of the Business and Professions Code is amended to read:

9727. The bureau may suspend or revoke the license of any cemetery licensee who, within the immediately preceding three years, has done any of the following:

(a) Been convicted of a crime substantially related to the qualifications, functions and duties of such licensee. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his or her business or any cemetery property offered for sale.

(c) Willfully disregarded or violated any of the provisions of this act relating to cemetery brokerage.

(d) Acted or conducted himself or herself in a manner which would have warranted the denial of his or her application for a cemetery license, or for a renewal thereof.

SEC. 204. Section 9727.1 of the Business and Professions Code is amended to read:

9727.1. The bureau may suspend or revoke the license of any cemetery licensee who procures a cemetery license, for himself or herself or any salesperson, by fraud, misrepresentation or deceit. An action to suspend or revoke a license for a violation of the provisions of this section shall be commenced within three years after the discovery by the bureau of that violation.

SEC. 205. Section 9727.2 of the Business and Professions Code is amended to read:

9727.2. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning

of this article. The bureau may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 206. Section 9728 of the Business and Professions Code is amended to read:

9728. When any salesperson is discharged by his or her employer for a violation of any of the provisions of this article prescribing a ground for disciplinary action, a verified written statement of the facts with reference thereto shall be filed forthwith with the bureau by the employer and, if the employer fails to notify the bureau as required by this section, the bureau may temporarily suspend or permanently revoke the cemetery license of the employer in accordance with the provisions of this act.

SEC. 207. Section 9729 of the Business and Professions Code is amended to read:

9729. The bureau may deny, suspend or revoke the cemetery license of a corporation as to any officer or agent acting under its cemetery license, and the cemetery license of a copartnership as to any member acting under its cemetery license, without revoking the cemetery license of the corporation or of the copartnership.

SEC. 208. Section 9730 of the Business and Professions Code is amended to read:

9730. The fees for cemetery licenses at all periods of the fiscal year is the same as provided in this article. All cemetery license fees are payable in advance of issuing the licenses and at the time of filing the application. All licenses shall be issued for the fiscal year and shall expire on June 30th of each fiscal year at midnight.

SEC. 209. Section 9737 of the Business and Professions Code is amended to read:

9737. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

SEC. 210. Section 9740 of the Business and Professions Code is amended to read:

9740. No person shall dispose of or offer to dispose of any cremated human remains unless registered as a cremated remains disposer by the bureau. This article shall not apply to any person, partnership, or corporation holding a certificate of authority as a cemetery, crematory license, cemetery broker's license, cemetery salesperson's license, or funeral director's license, nor shall this article

apply to any person having the right to control the disposition of the cremated remains of any person or that person's designee if the person does not dispose of or offer to dispose of more than 10 cremated human remains within any calendar year.

SEC. 211. Section 9741 of the Business and Professions Code is amended to read:

9741. (a) Registration shall be on the form prescribed by the bureau and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.

(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.

SEC. 212. Section 9741.1 of the Business and Professions Code is amended to read:

9741.1. The bureau shall prepare and deliver to each registered cremated remains disposer a booklet that includes, but is not limited to, the following information: details about the registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

SEC. 213. Section 9742 of the Business and Professions Code is amended to read:

9742. All aircraft used for the scattering of cremated human remains shall be validly certified by the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains shall be registered with the Department of Motor Vehicles or documented by a federal agency, as appropriate. The certification or registration shall be available for inspection by the bureau.

SEC. 214. Section 9744.5 of the Business and Professions Code is amended to read:

9744.5. (a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and phone number of any storage facility being used by the registrant to store cremated remains. Cremated remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the registered cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

SEC. 215. Section 9745 of the Business and Professions Code is amended to read:

9745. Each cremated remains disposer shall file, and thereafter maintain an updated copy of, an annual report on a form prescribed by the bureau. The report shall include, but not be limited to, the names of the deceased persons whose cremated remains were disposed of, the dates of receipt of the cremated remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30th and shall be filed with the bureau no later than September 30th of each year.

SEC. 215.5. Section 9745 of the Business and Professions Code is amended to read:

9745. (a) Each cremated remains disposer shall file, and thereafter maintain an updated copy of, an annual report on a form prescribed by the bureau. The report shall include, but not be limited to, the names of the deceased persons whose cremated remains were disposed of, the dates of receipt of the cremated remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30th and shall be filed with the bureau no later than September 30th of each year.

(b) Any cremated remains disposer that makes a willful and material false statement regarding the disposal of cremated remains in the annual report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) Any cremated remains disposer that makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

SEC. 216. Section 9746 of the Business and Professions Code is amended to read:

9746. All cremated remains disposer registrations shall expire at midnight on September 30th of each year. A person desiring to renew

his or her registration shall file an application for renewal on a form prescribed by the bureau accompanied by the required fee. The bureau shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the department.

SEC. 217. Section 9749.5 of the Business and Professions Code is amended to read:

9749.5. A cremated remains disposer shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 9725). Any violation of this article shall also be grounds for disciplinary action.

SEC. 218. Section 9751 of the Business and Professions Code is amended to read:

9751. The original cemetery broker's license fee shall be fixed by the bureau at not more than four hundred dollars (\$400).

SEC. 219. Section 9752 of the Business and Professions Code is amended to read:

9752. The original cemetery broker's license fee is payable at the time of the filing of an application for an original cemetery broker's license.

If the applicant fails the required written examination, he or she may be permitted to take another examination upon the filing of an application for reexamination and the payment of a reexamination fee. This reexamination fee shall be fixed by the bureau at not more than one hundred dollars (\$100).

No part of any original cemetery broker's license fee or reexamination fee is refundable. It is deemed earned upon receipt by the bureau, whether the accompanying application for a license is complete or incomplete.

SEC. 220. Section 9753 of the Business and Professions Code is amended to read:

9753. The annual renewal fee for a cemetery broker's license shall be fixed by the bureau at not more than three hundred dollars (\$300).

SEC. 221. Section 9754 of the Business and Professions Code is amended to read:

9754. If the licensee is a cemetery brokerage corporation, the license issued to it entitles one officer only, on behalf of the corporation, to engage in the business of a cemetery broker without the payment of a further fee, that officer to be designated in the application of the corporation for a license. For each other officer of a licensed cemetery brokerage corporation, through whom it engages in the business of a cemetery broker, the annual renewal fee, in addition to the fee paid by the corporation, shall be fixed by the bureau at not more than one hundred dollars (\$100).

SEC. 222. Section 9755 of the Business and Professions Code is amended to read:

9755. If the licensee is a cemetery brokerage copartnership, the license issued to it entitles one member only of the copartnership to engage on behalf of the copartnership in the business of a cemetery broker, which member shall be designated in the application of the copartnership for a license. For each other member of the copartnership who on behalf of the copartnership engages in the business of a cemetery broker, the annual renewal fee, in addition to the fee paid by the copartnership, shall be fixed by the bureau at not more than one hundred dollars (\$100).

SEC. 223. Section 9756 of the Business and Professions Code is amended to read:

9756. The cemetery salesperson's license fee shall be fixed by the bureau at not more than thirty dollars (\$30).

SEC. 224. Section 9758 of the Business and Professions Code is repealed.

SEC. 225. Section 9759 of the Business and Professions Code is amended to read:

9759. The annual renewal fee for a cemetery salesperson's license shall be fixed by the bureau at not more than twenty-five dollars (\$25).

SEC. 226. Section 9760 of the Business and Professions Code is amended to read:

9760. For a branch office broker's license, the fee shall be fixed by the bureau at not more than one hundred dollars (\$100).

SEC. 227. Section 9761 of the Business and Professions Code is amended to read:

9761. For change of name or of address of licensee on the records of the bureau, the fee shall be fixed by the bureau at not more than twenty-five dollars (\$25).

SEC. 228. Section 9762 of the Business and Professions Code is amended to read:

9762. For transfer of a salesperson's license on change of employer, the fee shall be fixed by the bureau at not more than twenty-five dollars (\$25).

SEC. 229. Section 9763 of the Business and Professions Code is amended to read:

9763. For a duplicate license the fee shall be fixed by the bureau at not more than twenty-five dollars (\$25).

SEC. 230. Section 9764 of the Business and Professions Code is amended to read:

9764. For reinstatement of a license within the fiscal year, the fee shall be fixed by the bureau at not more than twenty-five dollars (\$25).

As used in this section, "reinstatement of a license" means the reissuance of a canceled cemetery broker's license, or a cemetery salesperson's license which was canceled during the year for which

it was issued upon the salesperson's withdrawal from the employ of a cemetery broker.

SEC. 231. Section 9765 of the Business and Professions Code is amended to read:

9765. Every cemetery authority operating a cemetery shall pay an annual regulatory charge for each cemetery to be fixed by the bureau at not more than four hundred dollars (\$400). In addition to an annual regulatory charge for each cemetery, an additional quarterly charge of not more than eight dollars and fifty cents (\$8.50) for each burial, entombment, or inurnment, and not more than eight dollars and fifty cents (\$8.50) for each cremation made during the preceding quarter shall be paid to the department and these charges shall be deposited in the Cemetery Fund. If the cemetery authority performed the cremation and either the burial, entombment, or inurnment, the total of all additional charges shall be not more than eight dollars and fifty cents (\$8.50).

Notwithstanding any other provision of law, including any provision contained in the Budget Act of 1996, this section shall remain in effect until the loans authorized by Chapter 38, Statutes of 1996, and by Chapter 162, Statutes of 1996, are repaid, with interest at the rate accruing to moneys in the Pooled Money Investment Account, but no later than April 1, 2003, pursuant to a loan repayment plan approved by the Department of Finance.

SEC. 232. Section 9766 of the Business and Professions Code is amended to read:

9766. Upon payment of the charges set forth, the bureau shall issue a renewal of the certificate of authority to the cemetery authority.

SEC. 233. Section 9767 of the Business and Professions Code is amended to read:

9767. Failure to pay the charges set forth by Section 9765 of this code prior to February 1st for each year shall be cause for suspension of the certificate of authority. The certificate may be restored upon payment to the bureau of the prescribed charges.

SEC. 234. Section 9769 of the Business and Professions Code is amended to read:

9769. All moneys received by the bureau under the provisions of this chapter shall be accounted for and reported by detailed statements furnished by the bureau to the Controller at least once a month, and at the same time these moneys shall be remitted to the Treasurer, and, upon order of the Controller, shall be deposited in the Cemetery Fund in the State Treasury, which fund is hereby created.

SEC. 235. Section 9780 of the Business and Professions Code is amended to read:

9780. A crematory established, operated, or maintained, other than by a licensed cemetery authority, may be operated by a

corporation, partnership, or natural person, provided that a valid crematory license shall have been issued by the bureau.

SEC. 236. Section 9781 of the Business and Professions Code is amended to read:

9781. Application for a crematory license shall be made in writing on the form prescribed by the bureau and filed at the principal office of the bureau. The application shall be accompanied by the fee provided for in this article and shall show that the applicant owns or is actively operating a crematory in this state or that the applicant is in a position to commence operating such a crematory.

SEC. 237. Section 9782 of the Business and Professions Code is amended to read:

9782. The bureau may require such proof as it deems advisable concerning the compliance by such applicant with all the laws, rules, regulations, ordinances, and orders applicable to the applicant and shall not issue such crematory license until it has satisfied itself that the public interest will be served by such applicant.

SEC. 238. Section 9783 of the Business and Professions Code is amended to read:

9783. (a) The bureau shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge and experience and financial responsibility for applicants for a crematory license. In reviewing an application for a crematory license, the bureau may consider acts of the applicant, including acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a crematory license under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a crematory license, the bureau may cause an investigation to be made of the physical status, plans, specifications, and financing of the proposed crematory, the character of the applicant, including, if applicable, its officers, directors, shareholders, or members, and any other qualifications required of the applicant under this article, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

At the time of the filing of the application required by this article, the applicant shall pay to the Cemetery Fund the sum fixed by the bureau at not in excess of four hundred dollars (\$400) to defray the expenses of investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall within five days after request therefor deposit an additional sum sufficient to defray such expenses, provided that the total sum shall not exceed the sum of nine hundred dollars (\$900).

SEC. 239. Section 9784 of the Business and Professions Code is amended to read:

9784. No crematory licensee under this article shall conduct any cremations:



(a) Unless the licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition to be made of the remains, agreeing to pay the regular fees of the licensee for cremation, disposition, and other services rendered, and any other contractual provisions as may be required by the bureau.

(b) Of any remains more than 24 hours after delivery of the remains, unless the remains have been preserved in the interim by refrigeration or embalming.

(c) Unless the licensee has a contractual relationship with a licensed cemetery authority for final disposition of cremated human remains by burial, entombment or inurnment of any and all remains which are not lawfully disposed of or which are not called for or accepted by the person or persons entitled to the custody and control of the disposition thereof within 90 days of the date of death.

SEC. 240. Section 9785 of the Business and Professions Code is amended to read:

9785. Each crematory licensee shall keep such records as may be required by the bureau to assure compliance with all laws relating to the disposition of cremated human remains and shall file annually with the bureau, a report in the form prescribed by the bureau, describing the operations of the licensee, including the number of cremations made, the disposition thereof, and any other information as the bureau may, from time to time, require.

SEC. 241. Section 9786 of the Business and Professions Code is amended to read:

9786. Every crematory licensee operating a crematory pursuant to a license issued in compliance with this article shall pay an annual regulatory charge for each crematory, to be fixed by the bureau at not more than four hundred dollars (\$400). In addition to an annual regulatory charge for each crematory, every licensee operating a crematory pursuant to a license issued pursuant to this article shall pay an additional charge of not more than eight dollars and fifty cents (\$8.50) per cremation made during the preceding quarter, which charges shall be deposited in the Cemetery Fund.

Notwithstanding any other provision of law, including any provision contained in the Budget Act of 1996, this section shall remain in effect until the loans authorized by Chapter 38, Statutes of 1996, and by Chapter 162, Statutes of 1996, are repaid, with interest at the rate accruing to moneys in the Pooled Money Investment Account, but no later than April 1, 2003, pursuant to a loan repayment plan approved by the Department of Finance.

SEC. 242. Section 9787 of the Business and Professions Code is amended to read:

9787. Each crematory for which a crematory license is required shall be operated under the supervision of a manager qualified as such in accordance with rules adopted by the bureau. Each manager

shall be required to successfully pass a written examination evidencing an understanding of the applicable provisions of this code and of the Health and Safety Code of this state.

SEC. 243. Section 9789 of the Business and Professions Code is amended to read:

9789. A crematory licensee shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 9725).

SEC. 244. Section 8113.6 of the Health and Safety Code is amended to read:

8113.6. Notwithstanding any other provision of law, any cemetery that violates any of the requirements of this chapter shall be subject to disciplinary action by the Cemetery and Funeral Bureau.

SEC. 245. Section 8343 of the Health and Safety Code is amended to read:

8343. A crematory shall maintain on its premises, or other business location within the State of California, an accurate record of all cremations performed, including all of the following information:

- (a) Name of referring funeral director, if any.
- (b) Name of deceased.
- (c) Date of cremation.
- (d) Name of cremation chamber operator.
- (e) Time and date that body was inserted in cremation chamber.
- (f) Time and date that body was removed from cremation chamber.
- (g) Time and date that final processing of cremated remains was completed.
- (h) Disposition of cremated remains.
- (i) Name and address of authorizing agent.
- (j) The identification number assigned to the deceased pursuant to Section 8344.
- (k) A photocopy of the disposition permit filed in connection with the disposition.

This information shall be maintained for at least 10 years after the cremation is performed and shall be subject to inspection by the Cemetery and Funeral Bureau.

SEC. 246. Section 8344 of the Health and Safety Code is amended to read:

8344. A crematory shall maintain an identification system allowing identification of each decedent beginning from the time the crematory accepts delivery of human remains until the point at which it releases the cremated remains to a third party. After cremation, an identifying disk, tab, or other permanent label shall be placed within the urn or cremated remains container before the cremated remains are released from the crematory. Each identification disk, tab, or label shall have a unique number that shall be recorded on all paperwork regarding the decedent's case and in



the crematory log. Each crematory shall maintain a written procedure for identification of remains.

On or after March 1, 1994, any crematory that fails, when requested by an official of the bureau to produce a written procedure for identification of remains, shall have 15 working days from the time of the request to produce an identification procedure for review by the chief of the Cemetery and Funeral Bureau. The license of the crematory shall be suspended pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no identification procedure is produced for review after 15 working days have elapsed.

SEC. 247. Section 8344.5 of the Health and Safety Code is amended to read:

8344.5. A crematory regulated by the Cemetery and Funeral Bureau shall knowingly cremate only human remains in cremation chambers, along with the cremation container, personal effects of the deceased, and no more than a negligible amount of chlorinated plastic pouches utilized for disease control when necessary.

SEC. 248. Section 8346.5 of the Health and Safety Code is amended to read:

8346.5. Every crematory operator, or duly authorized representative shall provide to any person who inquires in person, a written, or printed list of prices for cremation and storage, cremation containers, cremated remains containers and urns, and requirements for cremation containers. This information shall be provided over the telephone when requested. Commencing July 1, 1994, any written or printed list shall identify the crematorium and shall contain, at a minimum, the current address and phone number of the Cemetery and Funeral Bureau in 8-point boldface type, or larger.

SEC. 249. Section 8347 of the Health and Safety Code is amended to read:

8347. (a) The crematory licensee, or his or her authorized representative shall provide instruction to all crematory personnel involved in the cremation process. This instruction shall lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during cremation, operation of the cremation chamber and processing equipment and all laws relevant to the handling of a body and cremated remains. This instruction shall be outlined in a written plan maintained by the crematory licensee for inspection and comment by an inspector of the Cemetery and Funeral Bureau.

(b) No employee shall be allowed to operate any cremation equipment until he or she has demonstrated to the licensee or authorized representative that he or she understands procedures required to ensure that health and safety conditions are maintained at the crematory and that cremated remains are not commingled other than for acceptable residue, as defined. The crematory licensee

shall maintain a record to document that an employee has received the training specified in this section.

(c) On or after March 1, 1994, any crematory that fails, when requested by an official of the bureau, to produce a written employee instruction plan, or record of employee training for inspection, shall have 15 working days from the time of the request to produce a plan or training record for review by the chief of the Cemetery and Funeral Bureau. The license of the crematory shall be suspended, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no plan or training record is produced for review after 15 working days have elapsed.

SEC. 250. Section 8574 of the Health and Safety Code is amended to read:

8574. For a violation of any provision of Section 8573, the bureau may temporarily suspend or permanently revoke the license of any cemetery licensee and may order the reservation or escrowing of assets of the cemetery authority to the extent deemed necessary to satisfy the cost of construction of the structure or building.

SEC. 251. Section 8585 of the Health and Safety Code is amended to read:

8585. Whenever ownership of any cemetery authority is proposed to be transferred, the cemetery authority shall notify the Cemetery and Funeral Bureau in the Department of Consumer Affairs. A change in ownership, for purposes of this section, shall be deemed to occur whenever more than 50 percent of the equitable ownership of a cemetery authority is transferred in a single transaction or in a related series of transactions to one or more persons, associations, or corporations. The notice shall specify the address of the principal offices of the cemetery authority, and whether it will be changed or unchanged, and shall specify the name and address of each new owner and the stockholders thereof.

Notice of such a change of ownership shall be published in a newspaper of general circulation in the county in which the cemetery is located. The notice shall specify the address of the principal offices of the cemetery authority, whether changed or unchanged, and shall specify the name and address of each new owner and each stockholder owning more than 5 percent of the stock of each new owner.

If there is a change of ownership pursuant to this section, the existing certificate of authority shall lapse and a new certificate of authority shall be obtained from the Cemetery and Funeral Bureau. No person shall purchase a cemetery, including purchase at a sale for delinquent taxes, or purchase more than 50 percent of the equitable ownership of a cemetery authority without having obtained a certificate of authority from the Cemetery and Funeral Bureau prior to the purchase of the cemetery or such an ownership interest in the cemetery authority.

Every cemetery authority shall post and continuously maintain at each public entrance to the cemetery a sign specifying the current name and address of the cemetery authority, a statement that the name and address of each director and officer of the cemetery authority may be obtained by contacting the Cemetery and Funeral Bureau of the State of California, and the address of the Cemetery and Funeral Bureau. Such signs shall be at least 16 inches high and 24 inches wide and shall be prominently mounted upright and vertical.

The Cemetery and Funeral Bureau shall suspend the certificate of authority of any cemetery authority which is in violation of the sign or public notice requirements of this section. Such certificate may be reinstated only upon compliance with such requirements.

SEC. 252. Section 8731 of the Health and Safety Code is amended to read:

8731. (a) The cemetery authority may appoint a board of trustees of not less than three in number as trustees of its endowment care fund. The members of the board of trustees shall hold office subject to the direction of the cemetery authority.

(b) If within 30 days after notice of nonreceipt by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, the cemetery authority fails to file the report required by Section 9650 of the Business and Professions Code, or if the report is materially not in compliance with law or the endowment care fund is materially not in compliance with law, the cemetery authority may be required to appoint as sole trustee of its endowment care fund under Section 8733.5, any bank or trust company qualified under the provisions of the Banking Law (Division 1 (commencing with Section 99) of the Financial Code) to engage in the trust business. That requirement may be imposed by the Cemetery and Funeral Bureau or other agency with regulatory authority over cemetery authorities, provided that the cemetery authority has received written notice of the alleged violation and has been given the opportunity to correct the alleged violation, and there has been a finding of a material violation in an administrative hearing.

(c) (1) Each member of the board of trustees shall provide signatory acknowledgment of understanding of the role of a trustee in managing trust funds in the following areas:

(A) Trustee duties, powers, and liabilities as contained in Part 4 (commencing with Section 16000) of Division 9 of the Probate Code.

(B) Reporting and regulatory requirements contained in Article 3 (commencing with Section 9650) of Chapter 19 of Division 3 of the Business and Professions Code.

(C) Provisions related to the care of active cemeteries contained in Chapter 5 (commencing with Section 8700) of Part 3 of Division 8.

(2) The signatory acknowledgment shall be retained by the cemetery authority during the duration of the trustee's term of office.

SEC. 253. Section 8734 of the Health and Safety Code is amended to read:

8734. (a) Except as provided in subdivisions (b), (c), and (d), the board of trustees or corporate trustee of an endowment care fund or one or more special care funds shall file a fidelity bond executed by an admitted surety insurer with the Cemetery and Funeral Bureau in the amount of fifty thousand dollars (\$50,000), guaranteeing payment to each such fund of any monetary loss incurred by the fund occasioned by acts of fraud or dishonesty by the trustees or trustee. The board of trustees or corporate trustee of both an endowment care fund and one or more special care funds need file only one such bond.

(b) Any cemetery authority which has a fidelity bond on all officers and employees issued by an admitted surety insurer and which by its terms would cover any acts of fraud or dishonesty by the trustees or corporate trustee of its endowment and special care funds need not file a separate bond with the Cemetery and Funeral Bureau as provided in subdivision (a), but shall submit to the Cemetery and Funeral Bureau satisfactory evidence of such a fidelity bond. Such fidelity bond, except as provided in subdivision (c), shall provide at least fifty thousand dollars (\$50,000) specifically designated to guarantee payment of any monetary loss incurred by the endowment care or special care funds of the cemetery authority occasioned by any acts of fraud or dishonesty by the board of trustees or corporate trustee thereof.

(c) Upon application, the Cemetery and Funeral Bureau may reduce the amount of the bond required pursuant to this section if moneys in the endowment care fund and special care funds administered by the applicant board of trustees or corporate trustee are substantially less than fifty thousand dollars (\$50,000). In such cases, the Cemetery and Funeral Bureau may permit filing of a bond pursuant to subdivision (a) or (b) which, while the bond is on file, is not less than the aggregate amount of all moneys in the endowment care fund and special care funds administered by the applicant. If the Cemetery and Funeral Bureau permits exceptions pursuant to this subdivision, it shall adopt procedures to assure that affected bonds do not fall below such amount.

(d) The trustees or corporate trustee of an endowment care fund or special care fund shall take no action respecting trust funds unless there is on file with the bureau a bond as required by this section. The Cemetery and Funeral Bureau may suspend the certificate of authority of any cemetery authority having endowment or special care funds with respect to which there is no bond on file with the bureau as required by this section, or whenever such a bond falls below the amount required by this section.

(e) Any state or national bank authorized to engage in the trust business pursuant to Division 1 (commencing with Section 99) of the Financial Code shall be exempt from the requirements of this section.

SEC. 254. Section 8740 of the Health and Safety Code is amended to read:

8740. A cemetery which otherwise complies with Section 8738 may be designated an endowment care cemetery even though it contains a small section which may be sold without endowment care, if the section is separately set off from the remainder of the cemetery and if signs are kept prominently placed around the section designating the same as a “nonendowment care section” in legible black lettering at least four inches high. There shall be printed at the head of all contracts, agreements, statements, receipts and certificates of ownership or deeds referring to plots in the section the phrase “nonendowment care” in lettering of a size and style to be approved by the Cemetery and Funeral Bureau.

No new “nonendowment care” sections shall be established, nor an existing one enlarged in an endowment care cemetery.

SEC. 255. Section 8743 of the Health and Safety Code is amended to read:

8743. Each nonendowment care cemetery or the Cemetery and Funeral Bureau shall post in a conspicuous place in the office or offices where sales are conducted and in a conspicuous place at or near the entrance of the cemetery or its administration building and readily accessible to the public, a legible sign with lettering of a size and style to be approved by the Cemetery and Funeral Bureau that shall contain the following information in the order and manner set forth below:

(a) A heading containing the words “nonendowment care.”

(b) This is a nonendowment care interment property.

SEC. 256. Section 8744 of the Health and Safety Code is amended to read:

8744. There shall be printed at the head of all contracts, agreements, statements, receipts, literature and other publications of nonendowment care cemeteries the following form:

“This institution is operated as a ‘nonendowment care’ interment property.”

The phrase “nonendowment care” shall be of a size and style to be approved by the Cemetery and Funeral Bureau.

SEC. 257. Section 8747.5 of the Health and Safety Code is amended to read:

8747.5. Each cemetery shall at all times maintain and keep within the State of California all books, accounts, records, cash and evidences of investments of its general and special care funds. They shall be readily available for inspection and examination by the Cemetery and Funeral Bureau in accordance with the provisions of the Business and Professions Code.



SEC. 258. Section 8748 of the Health and Safety Code is amended to read:

8748. Where an endowment care mausoleum or mausoleum-columbarium is operated within an endowment care cemetery and the cemetery corporations or cemetery authorities owning or operating each merge and consolidate into one cemetery authority or corporation, the endowment care funds established by each may be consolidated and merged into one endowment care fund. Such merger shall be accomplished by the execution of a declaration of trust by the successor cemetery authority or corporation, which declaration shall provide:

(a) That the assets of each endowment care fund shall be merged and consolidated into one endowment care fund which shall be held and administered by the directors of the successor cemetery authority or the trustees appointed by them for the care, maintenance, and embellishment of both cemeteries in accordance with the provisions of this code.

(b) That the income from such endowment care funds shall be used for the general care, maintenance, and embellishment for the cemetery as a whole, or, if the income from such consolidated fund is to be divided between such mausoleum or mausoleum-columbarium and cemetery, the proportion or manner in which it is to be divided.

(c) That it accepts and will administer all special care funds for the purpose for which they were established and in accordance with the provisions of this code.

The declaration of trust shall be approved by all of the trustees of each endowment care fund and by the directors of the cemetery authority or corporation appointing such trustees, which approval shall be endorsed upon such declaration of trust. The declaration of trust shall not be effective unless and until approved by the Cemetery and Funeral Bureau.

An executed copy of such declaration of trust so approved shall be filed with the Cemetery and Funeral Bureau and in the office of the cemetery authority or corporation owning or operating such cemetery, where it shall be available for inspection by any owner of property therein.

Upon approval of the declaration of trust by the Cemetery and Funeral Bureau, the assets and liabilities of such endowment care funds shall be deemed merged and consolidated into one endowment care fund, and the trustees of, or appointed by, the cemetery authority or corporation handling such funds shall be immediately vested with the title to all of the assets and subject to all of the liabilities thereof. The trustees of the endowment care funds which have been thus merged or consolidated shall be relieved of any obligations or duties arising subsequent to such merger or consolidation.



SEC. 259. Section 9600.5 of the Health and Safety Code is amended to read:

9600.5. The Cemetery and Funeral Bureau may, in addition to the construction methods and standards allowed in this chapter, adopt regulations for the construction of private mausoleums or private columbariums, which at a minimum, include the following:

- (a) Standards for design and construction for seismic load protection.
- (b) Methods of construction, including solid granite construction.
- (c) Methods of sealing to prevent leakage from crypts.
- (d) Ventilation of crypts.
- (e) Types of incombustible materials which may be used in construction.

SEC. 260. Section 9600.6 of the Health and Safety Code is amended to read:

9600.6. Private mausoleums or columbariums may be constructed in conformance with the methods and standards set forth in this chapter or in conformance with the construction methods and standards as adopted by the Cemetery and Funeral Bureau.

SEC. 261. Section 215.5 of this bill incorporates amendments to Section 9745 of the Business and Professions Code proposed by both this bill and AB 2279. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 9745 of the Business and Professions Code, and (3) this bill is enacted after AB 2279, in which case Section 215 of this bill shall not become operative.

SEC. 262. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

